

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE UNITED STATES OF AMERICA,

Appellant,

No. 2209.

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
CLARENCE W. ROBNETT, WILLIAM DWYER,
and FRANK W. KETTENBACH,

Appellees.

THE UNITED STATES OF AMERICA,

Appellant,

No. 2210.

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
CLARENCE W. ROBNETT, WILLIAM DWYER,
THE IDAHO TRUST COMPANY, a Corporation,
THE LEWISTON NATIONAL BANK, a Corpora-
tion, THE CLEARWATER TIMBER COMPANY,
a Corporation, ELIZABETH W. THATCHER,
CURTIS THATCHER, ELIZABETH WHITE,
EDNA P. KESTER, ELIZABETH KETTEN-
BACH, MARTHA E. HALLETT, and KITTY
E. DWYER,

Appellees.

THE UNITED STATES OF AMERICA,

Appellant,

No. 2211.

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
and WILLIAM DWYER,

Appellees.

Transcript of Record.

VOLUME XI.

(Pages 3937 to 4223 Inclusive.)

FILED

JAN 23 1913

Appeals from the District Court of the United States for the
District of Idaho, Central Division.

Nos. 2209, 2210 AND 2211.

United States
Circuit Court of Appeals
For the Ninth Circuit.

THE UNITED STATES OF AMERICA,

Appellant,

No. 2209.

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
CLARENCE W. ROBNETT, WILLIAM DWYER,
and FRANK W. KETTENBACH,

Appellees.

THE UNITED STATES OF AMERICA,

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No. 2210.

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
CLARENCE W. ROBNETT, WILLIAM DWYER,
THE IDAHO TRUST COMPANY, a Corporation,
THE LEWISTON NATIONAL BANK, a Corporation,
THE CLEARWATER TIMBER COMPANY,
a Corporation, ELIZABETH W. THATCHER,
CURTIS THATCHER, ELIZABETH WHITE,
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BACH, MARTHA E. HALLETT, and KITTY
E. DWYER,

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THE UNITED STATES OF AMERICA,

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No. 2211.

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WILLIAM F. KETTENBACH, GEORGE H. KESTER,
and WILLIAM DWYER,

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Transcript of Record.

VOLUME XI.

(Pages 3937 to 4223 Inclusive.)

Appeals from the District Court of the United States for the
District of Idaho, Central Division.

Records of U.S. Circuit
Court of appeals
790

No. 2209

United States
Circuit Court of Appeals

For the Ninth Circuit.

THE UNITED STATES OF AMERICA,

Appellant,

vs.

WILLIAM F. KETTENBACH, GEORGE H. KESTER,
CLARENCE W. ROBNETT, WILLIAM
DWYER, and FRANK W. KETTENBACH,

Appellees.

Transcript of Record.

VOLUME XI.

(Pages 3937 to 4223, Inclusive.)

Appeals from the District Court of the United States for the
District of Idaho, Central Division.

PLAINTIFFS EXHIBIT

[4- 590.]

admitted
May June '07

37

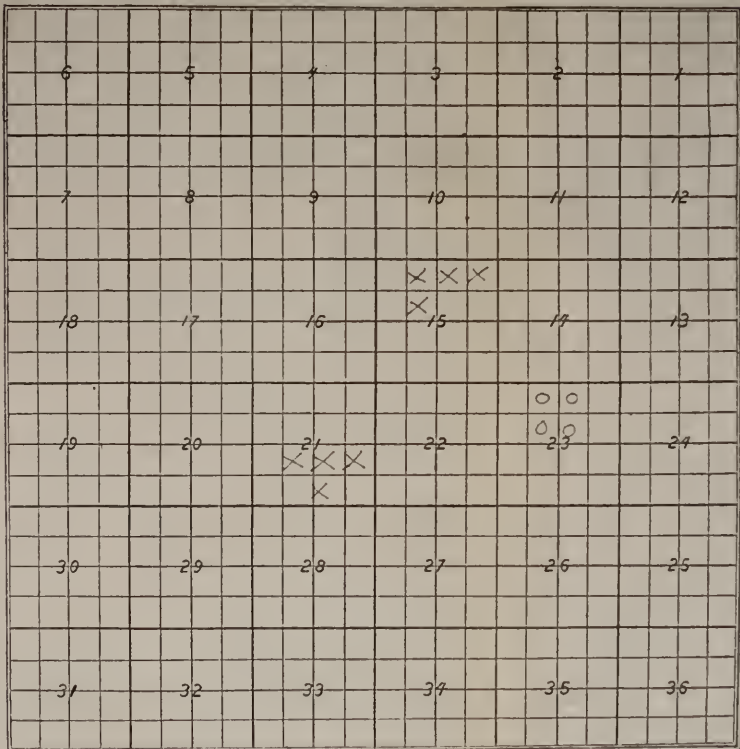
6 E

220615

03713

Pol. Lit. Ex

(25)



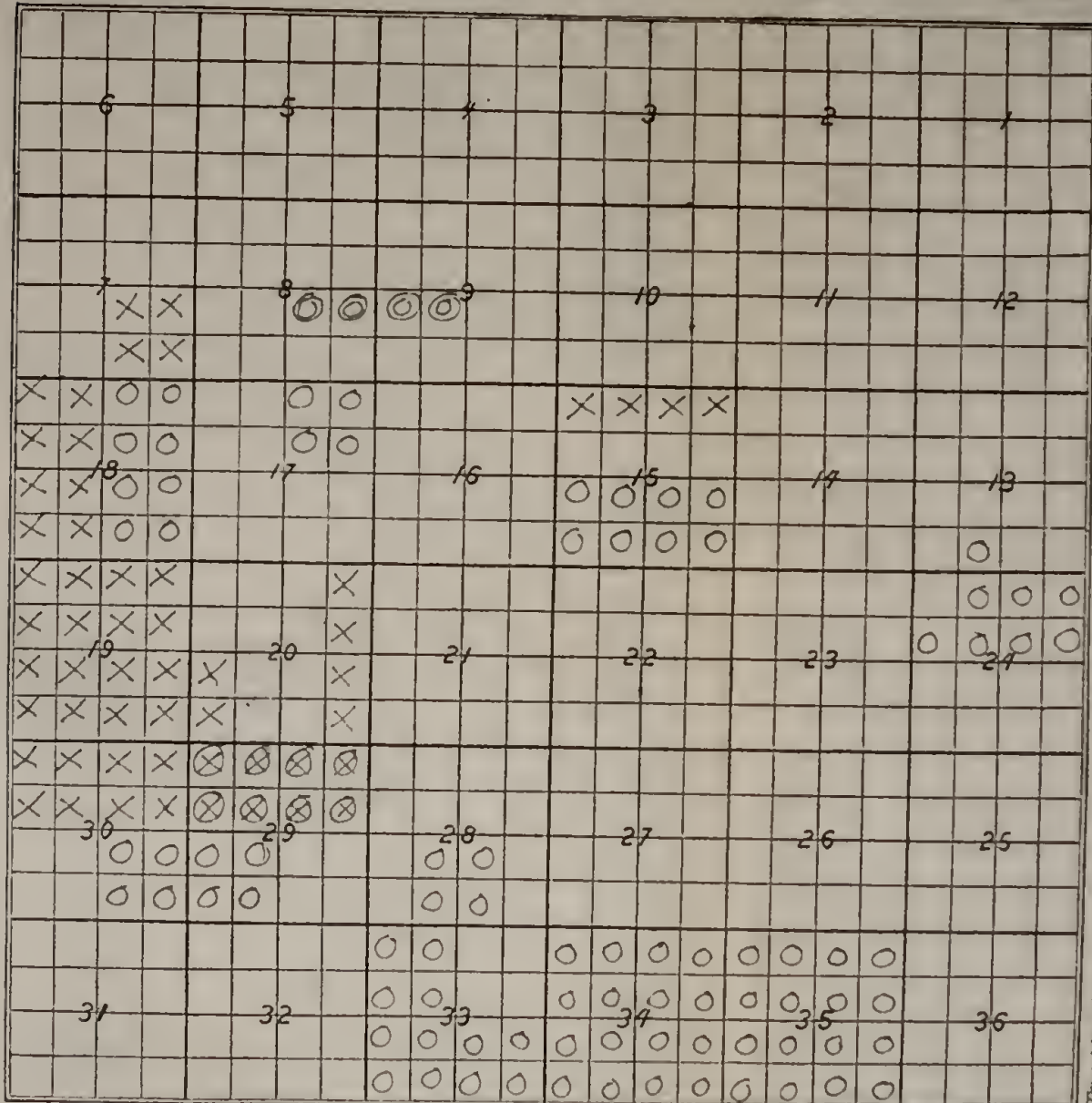
meridian

6-311

Scale 80 chains to an inch

[4- 590]

Township No. 38.- Range No. 6 E 18 Mer

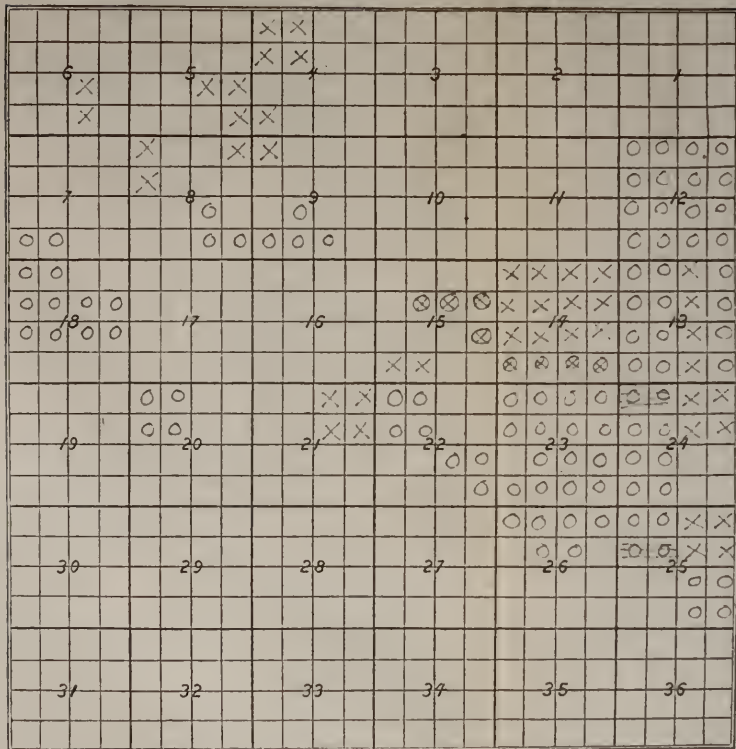


6-311

Scale 80 chains to an inch
20 40 60 80

True Meridian

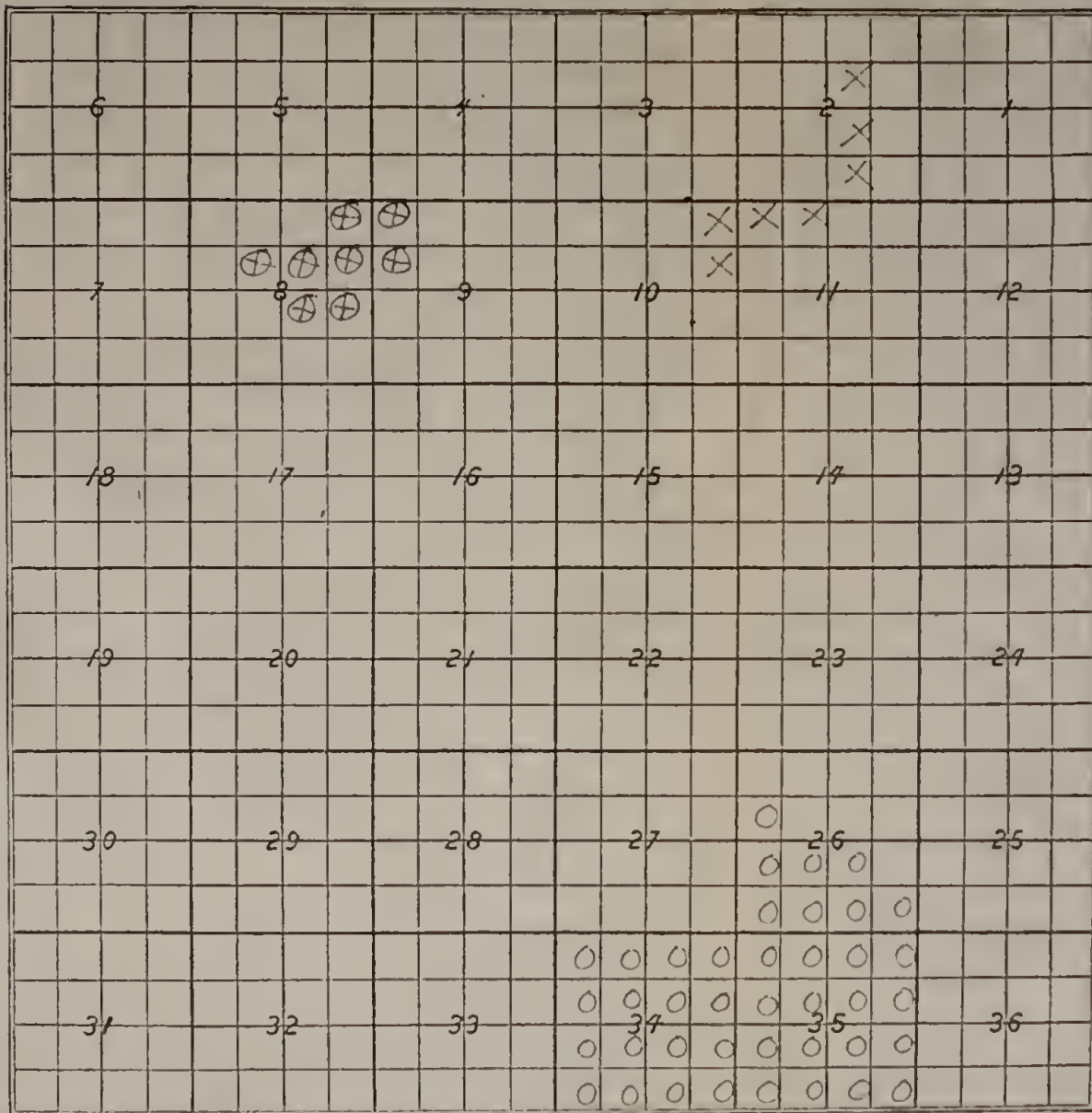
[4-590]

 Township No. 38 Range No. 5 E Mer 18


6.311

[4-- 590]

Township No. 38 Range No. 4 E Mer



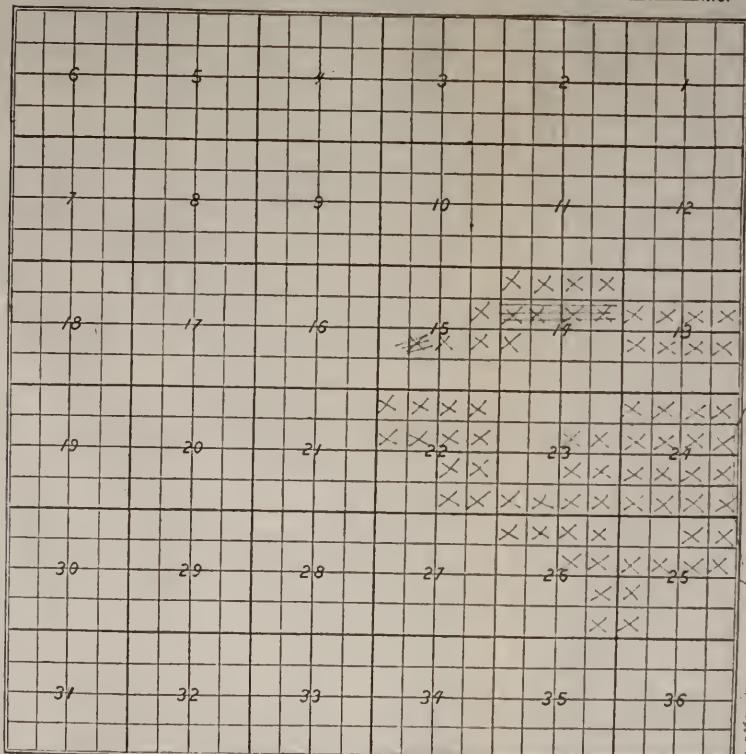
True Meridian

6.311

Scale 80 chains to an inch

[4- 590]

Township No. 39 Range No. 3 E 13 Mer



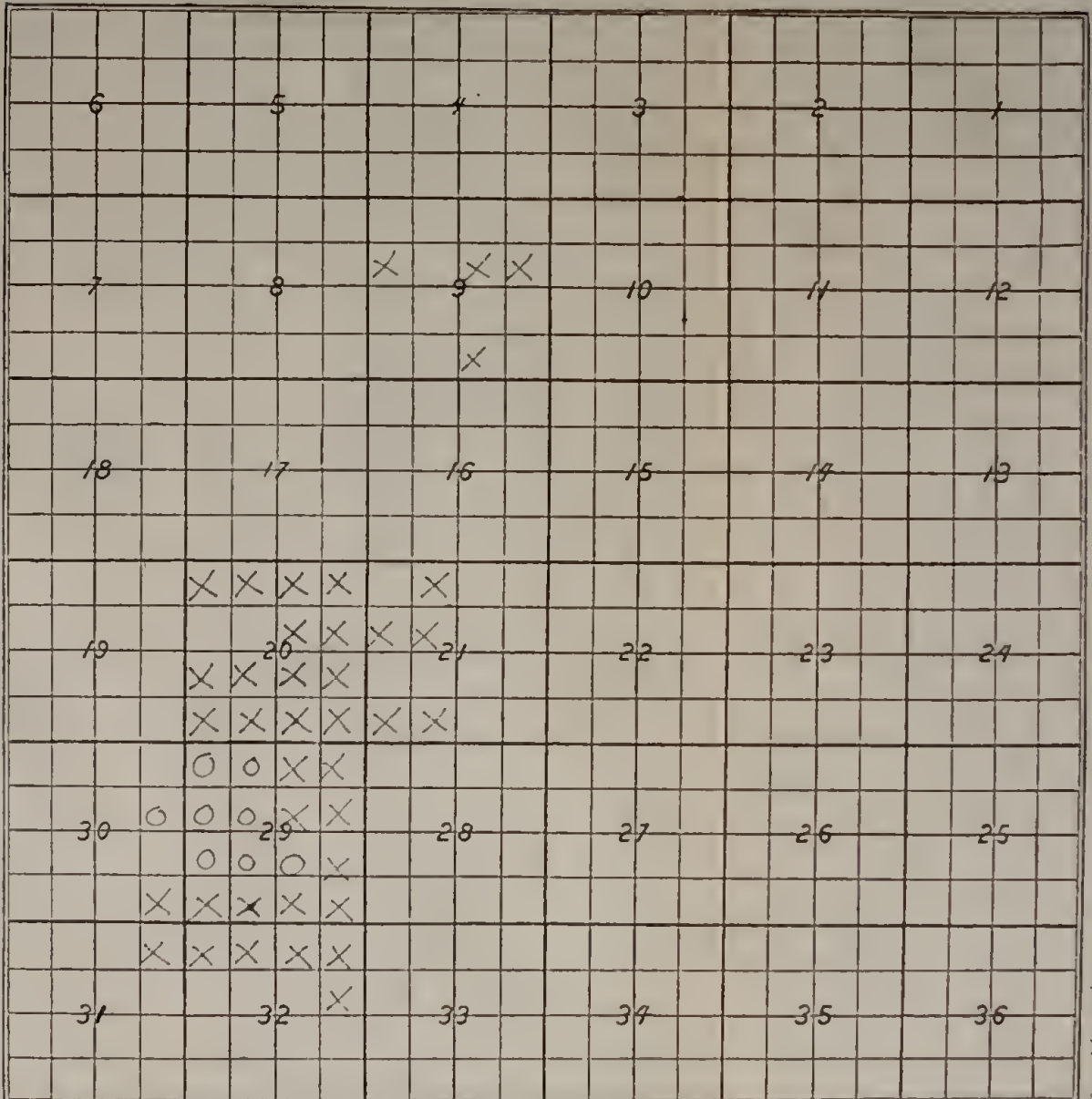
6-311

Scale 60 chains to an inch
20 40 60 80

True Meridian

[4-590]

Township No. 39 Range No. 4 E B. Mer



(30)

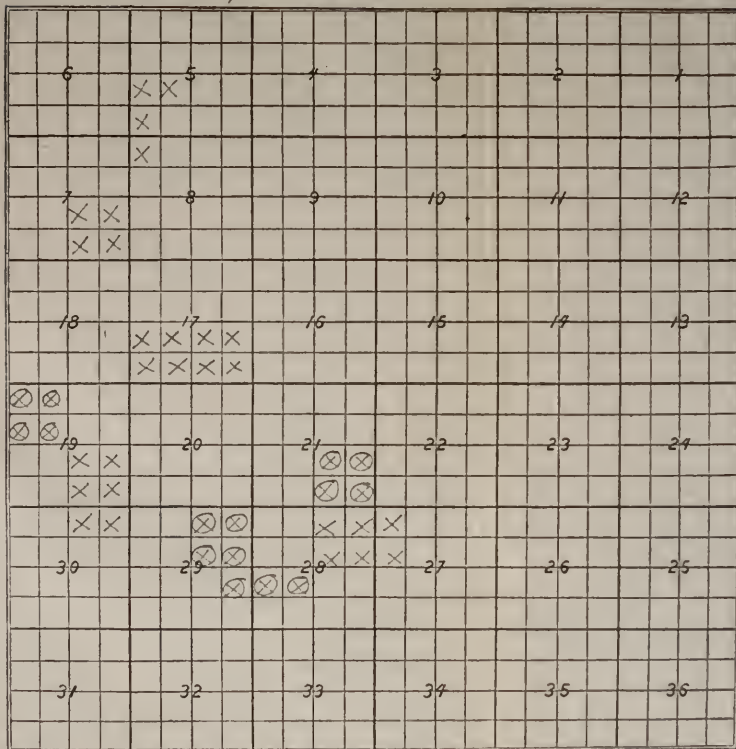
6-311

Scale 80 chains to an inch.
20 40 60 80

True Meridian

[4-380]

Township No. 39 Range No. 5E Mer B



6-311

[A-590]

Township No.

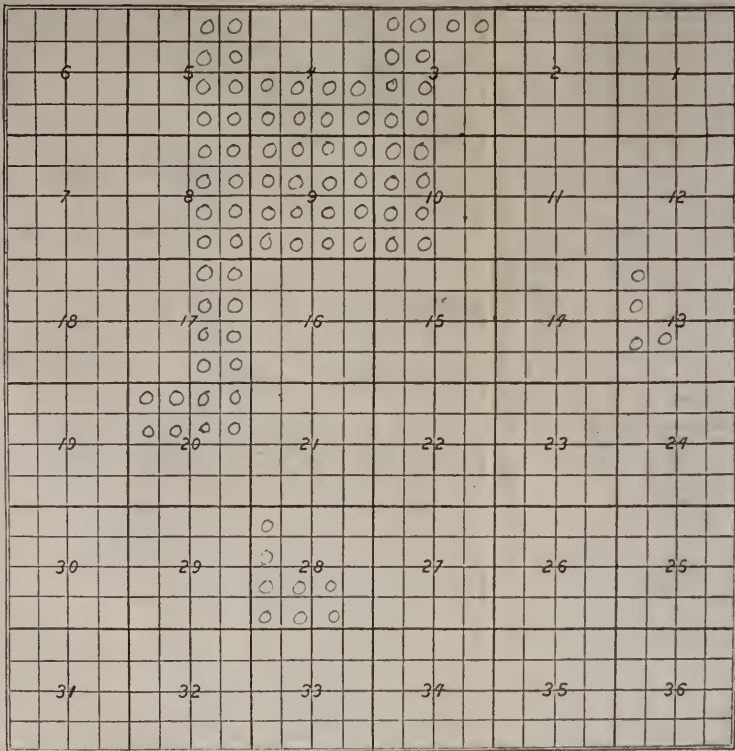
40

Range No.

6 E

B

Mer



6-311

Scale: 1 inch = 1 mile

25' on
1/2 mile
1/2 mile

8

1/2 mile

Plaintiff's Exhibit No. 81.

Office of
J. B. WEST,
Attorney at Law,
Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlement of
All Kinds of Claims.

Lewiston, Idaho, Nov. 23, 1909.

H. J. Martin, Esq.,
Spokane, Washington.

Dear Sir:—

I have been sick since I arrived from Spokane, but out again. There is a great deal of Timber excitement here and several parties are in the field to purchase Timber and it looks as if the market will be strong. These parties desire large *boddies* and the larger the better.

Kester and Kettenbach has an offer hovering around \$1.50 per M. for every kind of merchantable timber and the Ties and Poles are "Thrown in" I can still controll this large body of land, which *im*-braces about 33 thousand acres upon the following conditions: The party who desire to buy must come here and make a birds eye trip over the land and thereby they can tell whether they want it or not and if they want it they must put up a payment and then an Option will be given them for Six months in which the land can all be estimated. They will not be required to pay if they do not want the land. If your men want the land they had better come down here and get whatever data that they need before entering the timber.

About 7,000 acres of this land is tied up and arrangements can be made for them to take this land as the same is turned loose. The Government will never get a claim. We have Estimates on nearly all this land and other people have it on all and correct estimates. Let the people [3528—158] come down here and get busy. I will write again when I am well.

Your Truly,

J. B. WEST.

I may be up within a few days.

Plaintiff's Exhibit No. 82.

Contract for the sale of timber land.

This Agreement made and entered into this day of November 1909, between of Spokane, Wash., party of the first part, and party of the second part, witnesseth:—

That the said party of the first part in consideration of the covenants and agreements on the part of the said party of the second part, hereinafter contained agrees to sell and convey unto the said party of the second part, and the said second party agrees to buy all that certain tract of land and 300 Million (300,000,000) feet of saw timber growing upon said lands, situate in and known as comprising sections, No's and the said second party in consideration for the purchase of said land and timber as aforesaid, agrees to pay to the said party of the first part the sum of \$. per thousand feet stumpage, for each and every thousand feet of standing timber that shall be found on said land after the same has been duly cruised by the

party of the second part at his own cost and expense, and duly approved by the party of the first part, and it is further agreed by the party of the [3529—159] first part that *their* will be on or about 300 Million (3,000,000) feet of marketable timber comprising 50% white pine balance fir, tamarack and cedar as per cruisers reports hereto attached.

It is further understood and agreed that the party of the second part shall pay to the party of the first part the sum of five per cent in cash on a basis of 300 million (300,000,000) feet as above set forth as a part of the purchase price of said timber at the time of the signing and sealing of this contract and the balance of the *purchase is* to be paid as soon as the timber has been cruised by the party of the second part and approved by the party of the first part which shall be made and done within the agreed time of the dating of this contract. Agreed time

In the event of a failure to comply with the terms hereof by the said party of the second part, the said party of the first part shall be released from all obligations in law or equity to convey said property and the said party of the second part, shall *forfit* all rights thereto and all moneys paid thereon, and the said party of the first part on receiving the payments at the time and in the manner mentioned, agrees to execute and deliver, to the said party of the second part, his assigns a good and sufficient deed, free and clear from all incumbrances.

And it is understood that the stipulations aforesaid are to apply to and bind the heirs, executors, and assigns of the respective parties and that the parties

of the second part is to have immediate possession of the said premises.

In testimony whereof we hereunto set our hands and seals this — day of ———, 1909 [3520—160]

.....
.....

Witnesses:

.....
.....

Plaintiff's Exhibit No. 83.

Lewiston, Idaho, November 24, 1909.

THIS MEMORANDUM OF AGREEMENT of even date is to certify that I agree to sell to J. B. West, or his assigns, not more than Fifteen Thousand (15,000) and not less than ten Thousand (10,000) acres of timber land lying and being in the eastern part of Nez Perce County, situate on or tributary to the North Fork of the Clearwater River, or anywhere in a locality other than tributary to the North Fork of the Clearwater River, being more particularly described as Pierce City District and Weippe District, which is bounded on the south by the Lolo Creek, on the west by the main Clearwater River, on the north by the north line of Township Forty (40) from one (1) to six (6) East, and on the east by the Oro Grande and its tributaries.

I further agree to take as compensation for the timber on said lands a flat price of One and 40/100 (\$1.40) Dollars per thousand for all and every kind of timber growing on said land, the classifications

of timber is about the following percentage: [3531—161]

White Pine	60	per cent.
Cedar	7½	“
Larch	2½	“
Red Fir	10	“
White Fir	15	“
Yellow Pine	5	“
<hr/>		
Total	100	“

The timber is to be estimated down to six inches at top of first 16 foot cut with reference to White Pine, and down to ten inches at top of first 16 foot cut with reference to the balance of the other kinds of timber.

This agreement is to last and be in effect for a period of ten (10) days only, and I further agree that upon the payment of Two and 50/100 (\$2.50) Dollars per acre for the minimum acreage that I have agreed to sell to the said J. B. West, I will agree to enter into a contract of an explicit nature, giving J. B. West, or his assigns, ample time to cruise or check the stumpage upon the lands to be sold, and in case, after said explicit contract has been entered into the parties fail to avail themselves of the provisions of the contract, said \$2.50 per acre is to be considered as forfeited to me, but in case they avail themselves of the provisions in the contract, said \$2.50 per acre is to be considered as part payment on the deal as a whole.

IN WITNESS WHEREOF I have hereunto set my hand this 24th day of November, 1909.

In the presence of:

W. F. KETTENBACH.

The option contemplated not to exceed six months. In the event that estimates made by the purchaser are not satisfactory the matter of estimates shall be submitted to arbitration, by the purchaser and seller selecting a man each and they to agree upon [3532—162] a third party, two of which shall agree.

GEO. H. KESTER.

N. B.—Subject to the consent and signature to this agreement of Geo. H. Kester, Spirit Lake, Idaho.

W. F. KETTENBACH. [3532—163]

COUNTY DIAGRAM

Stunge No. 1 E

Range No. 51

Finger No. 10.

3528

Township No 10 - 11

Township No 34 N

[illegible]

Plaintiff's Exhibit No. 85.

Township.	Clear Title.	Lite Pendente.	Final Receipt.
37-5-E. B. M.	4-X	5-C	-R
37-6-	9		4
37-3-	4		
38-4-	15		
38-5-	52	26	16
38-6-	22	32	32
39-3-	16	68	
39-4-	39		
39-5-	17	22	4
35-4-	17		
35-5-	29		
36-5-	2	23	
34-4-	10		
34-5-	4		16
40-5-	4		
40-6-	4		
38-2-	4		
	<hr/>	<hr/>	<hr/>
	252	176	72

10,080 Acres 7,040 Acres 2,880 Acres

1500 acres additional not furnished on these plats which comes under X.

An average of 23,000 feet per acre about 60% White Pine, 5% Yellow Pine, 15% White Fir, 10% Red Fir, 7½% Cedar, 2½% Larch.

This is attached to plats the original being marked Pltfs. Ex. No. 85 and will be sent to the Court of Appeals. [3536—166]

Plaintiff's Exhibit No. 86.

Copied in full in the transcript of the testimony at page 1577.

Plaintiff's Exhibit No. 87.

“Office of
J. B. WEST,
Attorney at Law,
Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Nov. 24, 1909.

I hereby authorize H. J. Martin, of Spokane, Washington, to exercise all power invested in me by virtue of a memorandum of agreement entered into by W. F. Kettenbach to myself of even date by which I am empowered to sell or convey or contract to convey certain Timber lands therein specified.

J. B. WEST.”

Plaintiff's Exhibit No. 88.

“Office of
J. B. WEST,
Attorney at Law,
Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Dec. 2, 1909.

H. J. Martin, Esq.,
Spokane, Washington.

Dear Martin:—[3537—167]

I have been looking for something good from you, but it seems that you run across another Nevitt.

To-day the Kettenbachs received a decision from our Federal Judge wherein the Court decided with the Kettenbachs in their Civil Suit which involves the land that is "Tied up" and the Courts holding almost clears the land. This tract of land taking it as a whole is the best bunch of White pine land that can be purchased in the United States. If you could see it, you would wonder why it is not sold. It would make the Diamond Match Company smile.

I hope you will make it with some other party. K. does not feel sore toward you. He says that you are honest and he wants to do business through us. Keep me posted, and when they strike any one that wants to buy tell them to put up and the goods can be delivered.

Yours Truly,

J. B. WEST."

Plaintiff's Exhibit No. 89.

"Office of

J. B. WEST,

Attorney at Law,

Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Dec. 25, 1909.

H. J. Martin, Esq.,

Spokane, Washington.

Dear Martin:—

Your letter of yesterday received. I am sick but a little better, I have been sick ever since my return

from Spokane. Mrs. West still ill. [3538—168]

A MERRY CHRISTMAS AND A HAPPY NEW
YEAR TO YOU.

Mr. Martin if your men want that Kettenbach timber they had better get down to business and that fast. I received a letter from a party to day advising me that if the proposition was still open he would take it and I wrote him to day and told him that the land was not sold, but would be sold to the first to put up the money. I advised him that if he was first he would get it and if he was not first he would not get it. I hope your men will take it for the reason I want to divide the Commission with you.

Yours truly,

J. B. WEST."

Plaintiff's Exhibit No. 90.

"Mr. J. B. West,

Dec. 28th, 09.

Lewiston, Ida.

Friend West:—

Your favor of recent date received and was very sorry to learn that the Kittenbaugh stuff was liable to sell without my being in the deal, for I feel so absolutely sanguine of procuring a purchaser for it, and that soon, that it is quite a blow to find that you have taken the matter up independently of me, by the way West are you quite positive that your party is not an emisary of these people that we have on here. But aside from them, and they say they are going to buy it and Mr. Vincent of the Old Na'tl. says they will, The Kansas City people are giving it serious consideration right now, and I have it up with a capi-

talist who is now in Florida and believe he will come on here to take it up if it is not sold in the mean time. I had not taken into consideration the possibility of your acting independent of me, [3539—169] and really West I believe you would feel better and I know I would, if we worked this deal together as partners.

I turned your letter over to McLeod and he is going to show it to these fellows and try and hurry them up a little if possible, but don't anticipate that they will act before the 1st. Prox. however West you should at least do this: Give me a final chance before accepting the other fellows payment.

Hoping that your and yours are feeling better,

I remain, Very truly,

H. J. MARTIN."

Plaintiff's Exhibit No. 91.

"Mr. J. B. West,

Dec. 24th, 09.

Lewiston, Ida.

Friend West:—

Mr. Dean has not conferred with Long yet, says he is kinda holding off with the hope of Mr. Long coming after him.

Bissell and McLeod are still very sanguine about the Kittenbauh deal, they say that these buyers went away a couple of weeks ago ostensibly to be gone for the holidays but that they had not much more than got home, until these fellows received a wire saying that they were coming back, and are here now, so they claim, they also claim that they have all been in conference several times fixing up details in the

contract between them, McLeod and Bissell are to furnish cruiser and lineman at their own expense, when the cruise begins, and are to receive a commission from the purchasers, in addition to their [3540—170] interest in the ten cents per. thousand.

McLeod told me that Vincent of the Old Na'tl. told him that the deal would go through sure, but that these fellows could not be hurried.

Well this is all I know about it, but am inclined to the belief that possibly they will take the deal up, soon after the first of the year.

Wishing you the best returns of the season, and hoping that Mrs. West has recovered from her recent illness,

I remain, Yours truly,

H. J. MARTIN."

Plaintiff's Exhibit No. 92.

"Office of
J. B. WEST,
Attorney at Law,
Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Dec. 30, 1909.

H. J. Martin, Esq.,
Spokane, Washington.

Dear Sir:—

I am in receipt of your favor of the 28th and note what you say relevant to the Kettenbach Land and in reply will state that I think that this block of Timber is the best one that can be purchased in the

Northwest and the same is attracting the attention of parties hunting timber. I received a letter from Portland yesterday and he wanted me to submit the proposition to him. I am in receipt of another letter from another party that have been trying to buy this land for several months and he wrote me that if the proposition was still open that he would come here and take it and I wrote him that the matter was in the same condition and could be [3541—171] delivered to the first who would deposit money and then he wanted a few days Option and that I refused and told him that nothing but money would get an Option. None of these parties are interested with the men that you have on the string and I would not permit such actions. I want your men to take the land and I have some hope that they will. I want to see you get your part of the Commission for you have given this matter a great deal of trouble and you are the man that I want to see sell the land but if some of these other parties comes and tender the money I can not refuse them. Hurry your men.

Yours Truly,

J. B. WEST."

Plaintiff's Exhibit No. 93.

“Office of
J. B. WEST,
Attorney at Law,
Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Jan. 31, 1910.

H. J. Martin, Esq.,
Spokane, Washington.

Dear Sir:—

To day after I talked with you over the Phone, I, at once, went and hunted up W. F. Kettenbach and told him that I wanted a renewal of the option that I had some time back and he told me that he had heretofore wanted to sell but now he had arranged for all the money that he needed and was also now busy getting ready to go to Boise to try his cases and that he had no time to fool with the land, and he further said that he thought that it would only be a few weeks until all his land would be relieved [3542—172] from the clutches of the law and then he could talk sale for all and that at this time he would not give an Option.

I then went and saw William Dwyer, who has some interest in the land, and tried to get him to see Kettenbach and have him give me the Option and Dwyer told me that Tom Shevlin wrote them a few days ago and wanted to buy the land and that Billie would not give him an Option but wrote and told

Shevlin what he would take and that Shevlin would have to act at once and that they had not heard from him but it was now about time and that they would hear from him within the next few days.

I will still work hard on this matter and will control the matter if within my power, I am sorry, indeed, that these things are in such condition. I will push every point that I can to save us.

Yours Truly,

J. B. WEST."

Plaintiff's Exhibit No. 94.

"Office of

J. B. WEST,

Attorney at Law,

Lewiston, Idaho.

Will Practice in All the Courts of
Idaho.

Special Attention Given to the Col-
lection and Settlements of
All Kinds of Claims.

Lewiston, Idaho, Feb. 5, 1910.

H. J. Martin, Esq.,

Spokane, Washington.

Dear Sir:—

Your favor of the second reached me and the contents carefully gone into and in reply will advise you that I have my eye on this matter and expect to have my ear close to the ground. I have talked with [3543—173] Kettenbach since I wrote you and he tells me that he has no buyer but simply holding the land until after their trials which will begin on the 15th. They have been for several days getting ready. Dwyer told me that Tom Shevlin was trying to buy the land, but Billie K. tells me that there is

nothing in it. A few days ago these parties deeded quite a batch of this land to the Idaho Trust Company, but that was to secure money and now they have all the money they want and ready to go into their trials. Billie told me that he and Kester had agreed not to sell until all their troubles were over and told me that if Kester was willing that he would sell and I went and saw Kester and he said that he would not sell at this time. I will watch and keep you posted.

Yours Truly,

J. B. WEST."

**Plaintiff's Exhibits Nos. 95 and 95-a to 95-k,
Inclusive, Relate to the Application and Entry
of Rowland A. Lambdin.**

Plaintiff's Exhibit No. 95: Rowland A. Lambdin.
Occupation bookkeeper.

Sworn statement dated and filed April 25, 1902, for the entry of the Southwest quarter of Section 29, Tp. 42, North of Range 1 West, Boise Meridian.

Plaintiff's Exhibit No. 95-a: Duplicate of sworn statement.

Plaintiff's Exhibit No. 95-b: Testimony of Rowland A. Lambdin given at final proof, July 22, 1902. Answer to question No. 5 thereof: April 22 and July 19, 1902, I walked over this land.

Answer to question No. 12 thereof: \$1,000.00. [3544
—174]

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 95-c: Cross-examination

of Rowland A. Lambdin at final proof, July 22, 1902.

Answer to question No. 5 thereof: Laundryman at Lewiston, Idaho, employed by C. H. Schroeder at \$50.00 per month.

Answer to question No. 6 thereof: Through a locator.

Answer to question No. 7 thereof: Yes. William Dwyer, \$100.00.

Answer to question No. 10 thereof: 1,000,000 feet. \$1,000.00.

Answer to question No. 12 thereof: I expect to hold it for the present.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 15 thereof: I do not know.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I borrowed \$100.00 of it on my personal note. I in no way involved this land to secure the loan. Most of it one year.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 95-d: Testimony of witness William Dwyer at final proof, July 22, 1902.

Answer to question No. 10 thereof: No.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 95-e: Cross-examination of witness William Dwyer at final proof.

Answer to question No. 7 thereof: I do not know.

Answer to question No. 8 thereof: I do not.

Plaintiff's Exhibit No. 95-f: Testimony of witness Charles Graves at final proof.

Plaintiff's Exhibit No. 95-g: Cross-examination of witness Charles Graves at final proof. [3545—175]

Plaintiff's Exhibit No. 95-h: Final certificate No. 3786, dated July 22, 1902.

Plaintiff's Exhibit No. 95-i: Receiver's receipt No. 3786, dated July 22, 1902.

Plaintiff's Exhibit No. 95-j: Certified copy of patent dated January 28, 1904, granting to Rowland A. Lambdin the land described in Plaintiff's Exhibit No. 95.

Plaintiff's Exhibit No. 95-k: Certified copy of warranty deed made and executed by Rowland A. Lambdin and wife, July 22, 1902, granting to W. F. Kettenbach and George H. Kester in fee simple, the land described in Plaintiff's Exhibit No. 95. Consideration mentioned therein \$800.00. Said deed was filed for record at the request of the Latah County Abstract Company, June 8, 1903.

Plaintiff's Exhibit No. 96.

Copied in full in the transcript of the testimony at pages 1676, 1677, 1678, 1679 and 1680.

**Plaintiff's Exhibits Nos. 97 and 97-a to 97-p,
Inclusive Relate to the Application and Entry
of James T. Jolly.**

Plaintiff's Exhibit No. 97: Affidavit of James T. Jolly, dated April 3, 1906, that since August 30, 1890, he has not acquired title to, nor was he then claiming under any of the public land laws of the United States, other than the mineral land laws, an amount of land which together with the land described in Plaintiff's Exhibit No. 97-a, will exceed in the aggregate 320 acres. [3546—176]

Plaintiff's Exhibit No. 97-a: James T. Jolly. Occupation, farmer.

Sworn statement dated and filed April 3, 1906, for the entry of the South half of the Northeast quarter and the East half of the Southeast quarter of Section 4 in Tp. 36, North of Range 5 East, Boise Meridian.

Plaintiff's Exhibit No. 97-b: Duplicate of sworn statement.

Plaintiff's Exhibit No. 97-c: Nonmineral affidavit.

Plaintiff's Exhibit No. 97-d: Testimony of James T. Jolly given at final proof, June 19, 1906.

Answer to question No. 5 thereof: On April 2, 1906, I went on foot.

Answer to question No. 12 thereof: \$900.00 or \$1,000.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 97-e: Testimony of witness Harvey J. Steffey given at final proof.

Answer to question No. 3 thereof: May 10, 1906, the last time, on foot.

Answer to question No. 10 thereof: No.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 97-f: Testimony of witness Charles E. Loney given at final proof, June 19, 1906.

Plaintiff's Exhibit No. 97-g: Cross-examination of James T. Jolly given at final proof.

Answer to question No. 6 thereof: Through Mr. H. J. Steffey.

Answer to question No. 7 thereof: Yes. H. J. Steffey. \$200.00. [3547—177]

Answer to question No. 8 thereof: Yes. April 2, 1906, went to see the land and timber with H. J. Steffey and C. E. Loney.

Answer to question No. 10 thereof: 900,000 or 1,000,000 feet. Value \$900.00 or \$1,000.00.

Answer to question No. 11 thereof: No, by my own judgment and estimate of Mr. Steffey.

Answer to question No. 12 thereof: I expect to dispose of it in the future.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 15 thereof: Lewiston, Idaho.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: Earned it by freighting and hard labor. Have had part of it for some time, the remainder I got before I started down here.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 97-h: Cross-examination of witness Harvey J. Steffey at final proof.

Answer to question No. 7 thereof: Good.

Answer to question No. 8 thereof: No. I think he has.

Plaintiff's Exhibit No. 97-i: Cross-examination of witness Charles E. Loney at final proof.

Answer to question No. 7 thereof: Good.

Answer to question No. 8 thereof: I think he has.

Plaintiff's Exhibit No. 97-j: Proof of publication.

Plaintiff's Exhibit No. 97-k: Notice for publication dated April 3, 1906, Persons named therein as witnesses: Harvey J. Steffey, John Gaffney, William Dwyer and Charles E. Loney.

Plaintiff's Exhibit No. 97-l: Notice for publication, dated April 3, 1906. Same witnesses mentioned therein. [3548—178] On the back of this paper is certificate of H. V. A. Ferguson, Special Agent, G. L. O., dated May 1, 1906, that he has inquired into the timber application No. 1869, James T. Jolly, that the land therein appears to be subject to purchase under Act of June 3, 1878; that he is informed by the United States Postmaster at Frasier, Idaho, the place of residence of the applicant, that he is fairly well to do and may be relied upon as having means of his own with which to make this intended purchase, and that he believes him to have applied to buy these lands in good faith and for his own exclusive use and benefit; and he further certifies that at that time he knows of no reason why final receipt should not issue if the proof papers are found regular and satisfactory on their face.

Plaintiff's Exhibit No. 97-m: Receiver's Receipt No. 5434, dated June 19, 1906.

Plaintiff's Exhibit No. 97-n: Final certificate No. 5434, dated June 19, 1906.

Plaintiff's Exhibit No. 97-o: Certified copy of patent dated September 11, 1907, granting to James T. Jolly the land described in Plaintiff's Exhibit No. 97-a.

Plaintiff's Exhibit No. 97-p: Certified copy of warranty deed made and executed by James T. Jolly and Effie A. Jolly, his wife, made and executed July 11, 1906, conveying to George H. Kester and William F. Kettenbach in fee simple, the land described in Plaintiff's Exhibit No. 97-a. Consideration men-

tioned therein \$850.00. Acknowledged before Fred H. Judd, Justice of the Peace of Nez Perce County. Recorded at the request of the Lewiston National Bank, July 27, 1906, in the office of the Recorder of Nez Perce County, Idaho. [3549—179]

Plaintiff's Exhibits Nos. 98 and 98-a to 98-o and 99-p and 99-q, Inclusive, Relate to the Application and Entry of Effie A. Jolly.

Plaintiff's Exhibit No. 98: Affidavit of Effie A. Jolly, dated March 23, 1906, to the effect that since August 30, 1890, she has not acquired title to nor is she now claiming under any of the public land laws of the United States, other than the mineral land laws, an amount of land which together with the land described in Plaintiff's Exhibit No. 98-b, will exceed in the aggregate 320 acres.

Plaintiff's Exhibit No. 98-a: Affidavit of Effie A. Jolly, dated March 23, 1906, to the effect that she is a married woman and the wife of James T. Jolly and that her application to purchase the land described in Plaintiff's Exhibit No. 98-b, under the Timber and Stone Act was made and filed by her in good faith and that she has never heretofore been interested in or derived any benefit from a former entry, that she purposes to purchase said tract applied for and pay for the same with her own and separate money, in which her husband has no interest, and that she has no contract or agreement with any person or persons, syndicate or corporation wherein the title she may acquire from the Government to said tract may inure in whole or in part to the benefit of any person except herself.

Plaintiff's Exhibit No. 98-b: Effie A. Jolly. Occupation, housekeeper.

Sworn statement dated and filed March 23, 1906, for the entry of the East half of the Northwest quarter and the North half of the Northeast quarter of Section 17 in Tp. 36, North of Range 5 East, Boise Meridian.

Plaintiff's Exhibit No. 98-c: Duplicate of sworn [3550—180] statement.

Plaintiff's Exhibit No. 98-d: Nonmineral affidavit.

Plaintiff's Exhibit No. 98-e: Certificate of H. V. A. Ferguson, Special Agent, G. L. O., dated May 1, 1906, wherein he certified that he has inquired into the timber application of Effie A. Jolly; that the land therein appears to be subject to purchase under the Act of June 3, 1878, that the applicant is the wife of James T. Jolly, who applied to buy timber land in Section 4, the same township and range, that he is informed by the United States Postmaster at Frasier, Idaho, the place of her residence, that "she has always been able to meet her obligations," but knows nothing of the real nature of her financial standing; that the facts must be brought out at the time of taking the final proof, and the propriety of issuing final receipt determined at the same time.

Plaintiff's Exhibit No. 98-f: Testimony of Effie A. Jolly, given at final proof, June 12, 1906.

Answer to question No. 5 thereof: March 21, 1906, went over part of it on foot and part on horseback.

Answer to question No. 12 thereof: \$1,000.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 98-g: Testimony of witness Harvey J. Steffey at final proof, June 12, 1907.

Answer to question No. 3 thereof: Last time May 6, 1906, on foot.

Answer to question No. 10 thereof: No.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 98-h: Testimony of witness John Gaffney given at final proof. [3551—181]

Answer to question No. 3 thereof: In October, 1905, went on foot.

Answer to question No. 10 thereof: No.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 98-i: Cross-examination of Effie A. Jolly at final proof, June 12, 1906.

Answer to question No. 6 thereof: Through my sister.

Answer to question No. 7 thereof: No.

Answer to question No. 8 thereof: Yes, March 21, 1906, went to see the timber and land with H. J. Steffey and Mrs. Loney.

Answer to question No. 11 thereof: No. **Just think** it would be worth \$1,000.00 at least.

Answer to question No. 12 thereof: If I can get my price for it, I will sell it.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 15 thereof: I could not say.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I borrowed it. Just got it today.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 98-j: Cross-examination of witness John Gaffney at final proof.

Plaintiff's Exhibit No. 98-k: Cross-examination of witness Harvey J. Steffey at final proof.

Answer to question No. 7 thereof: Good.

Answer to question No. 8 thereof: No.

Plaintiff's Exhibit No. 98-l: Notice for publication, dated March 23, 1906, Persons named as witnesses therein: Harvey J. Steffey, John Gaffney, William J. White and William Dwyer.

Plaintiff's Exhibit No. 98-m: Proof of publication. [3552—182]

Plaintiff's Exhibit No. 98-n: Receiver's receipt No. 6028, dated December 5, 1906.

Plaintiff's Exhibit No. 98-o: Final certificate No. 6028, dated December 5, 1906.

Plaintiff's Exhibit No. 99-p: Certified copy of patent, dated June 3, 1909, granting to Effie A. Jolly, the land described in Plaintiff's Exhibit No. 98-b.

Plaintiff's Exhibit No. 99-q: Certified copy of warranty deed made and executed by Effie A. Jolly and James T. Jolly, her husband, February 28, 1907, conveying to George H. Kester and William F. Kettenbach in fee simple, the land described in Plaintiff's Exhibit No. 98-b. Consideration mentioned in deed \$900.00. Acknowledged before Wm. J. Todd, Notary Public in and for Nez Perce County. Recorded at the request of C. W. Robnett, March 4, 1907, in the office of the Recorder for Nez Perce County, Idaho.

**Plaintiff's Exhibits Nos. 100 and 100-a to 100-r,
Inclusive, Relate to the Application and Entry
of Mary A. Loney.**

Plaintiff's Exhibit No. 100: Affidavit of Mary A. Loney, dated and filed March 23, 1906, to the effect that since August 30, 1890, she has not acquired title to nor is she now claiming under the agricultural public land laws, an amount of land which together with the land now applied for will exceed 320 acres.

Plaintiff's Exhibit No. 100-a: Affidavit of Mary A. Loney, dated March 23, 1906, in which she swears she [3553—183] is a married woman and the wife of Charles E. Loney; that her application to purchase the land described in Plaintiff's Exhibit No. 100-b, under the Timber and Stone Act, was made and filed by her in good faith; that she expects to purchase the same for her own use and benefit and pay for the same with her own money in which her husband has no interest; that she has made no contract or agreement with any company, person or corporation wherein the title she may acquire from the Government may inure in whole or in part to the benefit of any person except herself, and that she has never before been interested in or derived any benefit from a former entry made under said Act.

Plaintiff's Exhibit No. 100-b: Mary A. Loney: Occupation, housekeeper.

Sworn statement dated and filed March 23, 1906, for the entry of the Northeast quarter of the Northeast quarter of Section 18 and the West half of the Northwest quarter and the Northwest quarter of

the Southwest quarter of Section 17, Tp. 36, North of Range 5 East, Boise Meridian.

Plaintiff's Exhibit No. 100-c: Duplicate of sworn statement.

Plaintiff's Exhibit No. 100-d: Certificate of H. V. A. Ferguson, Special Agent, G. L. O., dated May 1, 1906, wherein he certifies that he has inquired into the timber application of Mary A. Loney; that the land embraced therein appears to be subject to purchase under the Timber Land Act, that he is informed by the United States Postmaster at Frasier, Idaho, the place of residence of applicant, that she is the wife of Charles E. Loney who applies to buy the land described in T. A. 1870 in the same section as these lands are; that he has been unable to learn what money this applicant owes or controls, or [3554—184] whether she seeks title to said land for the purpose of furnishing material for her husband's sawmill. He further certifies that the essential facts must be brought out at the time of making final proof.

Plaintiff's Exhibit No. 100-e: Testimony of Mary A. Loney given at final proof, June 12, 1906.

Answer to question No. 4 thereof: Yes, March 21, 1906.

Answer to question No. 5 thereof: I rode and walked over it on March 21, 1906.

Answer to question No. 12 thereof: \$1,200.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 100-f: Testimony of wit-

ness John Gaffney given at final proof, June 12, 1906.

Plaintiff's Exhibit No. 100-g: Testimony of witness Harvey J. Steffey given at final proof.

Answer to question No. 10 thereof: I do not.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 100-h: Cross-examination of Mary A. Loney at final proof.

Answer to question No. 6 thereof: Through the locator.

Answer to question No. 7 thereof: Am to pay Harvey J. Steffey \$100.00 for locating me.

Answer to question No. 8 thereof: Yes, March 21, 1906, I walked and rode over it with my sister and Mr. Steffey.

Answer to question No. 10 thereof: I made no estimate of amount, I guess it is worth \$1,200.00.

Answer to question No. 12 thereof: I expect to hold it until I get a chance to get what I think it is worth and then sell it.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No. [3555—
185]

Answer to question No. 15 thereof: No market at present, unless at the local sawmills.

Answer to question No. 16 thereof: No. Yes.

Answer to question No. 17 thereof: I got it from Mr. Steffey to-day and expect to give him a mortgage on the land after proof.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 100-i: Cross-examination of witness John Gaffney at final proof.

Answer to question No. 8 thereof: Yes.

Plaintiff's Exhibit No. 100-j: Cross-examination of witness Harvey J. Steffey at final proof.

Answer to question No. 7 thereof: Good.

Answer to question No. 8 thereof: No.

Plaintiff's Exhibit No. 100-k: Notice for publication, dated March 23, 1906. Witnesses mentioned therein: Harvey J. Steffey, John Gaffney, William J. White and William Dwyer.

Plaintiff's Exhibit No. 100-l: Proof of publication.

Plaintiff's Exhibit No. 100-m: Nonmineral affidavit.

Plaintiff's Exhibit No. 100-n: Affidavit of Mary A. Loney, dated November 19, 1906, in which she swears that she has not sold or in any manner alienated her rights to the land described in Plaintiff's Exhibit No. 100-b, or any part thereof.

Plaintiff's Exhibit No. 100-o: Receiver's receipt No. 6020, dated December 3, 1906.

Plaintiff's Exhibit No. 100-p: Final Certificate No. 6020, dated December 3, 1906.

Plaintiff's Exhibit No. 100-q: Certified copy of patent, dated September 19, 1907, granting to Mary A. Loney, the land described in Plaintiff's Exhibit No. 100-b.

Plaintiff's Exhibit No. 100-r: Certified copy of [3556—186] warranty deed made and executed by Mary A. Loney and Charles E. Loney, her husband, February 28, 1907, conveying to George H. Kester and William F. Kettenbach in fee simple, the land described in Plaintiff's Exhibit No. 100-b. Consideration mentioned therein \$950.00. Said deed was

acknowledged before W. J. Todd, Notary Public for Nez Perce County and filed for record at the request of C. W. Robnett, March 4, 1907, in the office of the Recorder of Nez Perce County, Idaho.

Plaintiff's Exhibit No. 101.

“Lewiston, Idaho, July 13, 1906. No. —

LEWISTON NATIONAL BANK

of Lewiston, Idaho.

Pay to the order of Chas. E. Loney, \$5.00 Five
no/100.....Dollars

H. J. STEFFEY.

Endorsed: Chas. E. Loney. Charles S. Myers.

Stamped paid with stamp of Lewiston National Bank, Lewiston, Idaho, July 19, 1906.

**Plaintiff's Exhibits Nos. 102 and 102-a to 102-p,
Inclusive, Relate to the Application and Entry
of Charles E. Loney.**

Plaintiff's Exhibit No. 102: Affidavit of Charles E. Loney, dated April 3, 1906, in which he swears that since August 30, 1890, he has not acquired title to nor is he claiming under any of the public land laws of the United States, other than the mineral land laws, an amount of [3557—187] land which together with the land described in Plaintiff's Exhibit No. 102-a, will exceed in the aggregate 320 acres.

Plaintiff's Exhibit No. 102-a: Charles E. Loney: Occupation, farmer.

Sworn statement dated and filed April 3, 1906, for the entry of Lot 4 and the Southwest quarter of the Northwest quarter and the North half of the South-

west quarter of Section 4, Tp. 36, North of Range 5 East, Boise Meridian.

Plaintiff's Exhibit No. 102-b: Duplicate of sworn statement.

Plaintiff's Exhibit No. 102-c: Nonmineral affidavit.

Plaintiff's Exhibit No. 102-d: Testimony of Charles E. Loney, given at final proof, June 19, 1906. Answer to question No. 12 thereof: \$1,000.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: I do.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 102-e: Testimony of witness James T. Jolly given at final proof.

Plaintiff's Exhibit No. 102-f: Testimony of witness Harvey J. Steffey given at final proof, June 19, 1906.

Answer to question No. 10 thereof: No.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 102-g: Cross-examination of Charles E. Loney at final proof, June 19, 1906.

Answer to question No. 6 thereof: Through H. J. Steffey.

Answer to question No. 7 thereof: Yes, H. J. Steffey, \$200.00.

Answer to question No. 8 thereof: April 2-06 went to see the timber with H. J. Steffey and J. T. Jolly.

Answer to question No. 10 thereof: 1 million feet. \$1,000.00.

Answer to question No. 11 thereof: No, just from my own judgment. [3558—188]

Answer to question No. 12 thereof: To sell it when I get what I want for it.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: They have not.

Answer to question No. 15 thereof: I don't know.

Answer to question No. 16 thereof: Yes. I do.

Answer to question No. 17 thereof: I sold property I had. Had it since Sunday when I got the money on a note that was due.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 102-h: Cross-examination of witness Harvey J. Steffey at final proof.

Answer to question No. 7 thereof: Good.

Answer to question No. 8 thereof: Yes.

Plaintiff's Exhibit No. 102-i: Cross-examination of witness James T. Jolly.

Answer to question No. 7 thereof: Fairly good.

Answer to question No. 8 thereof: I do not.

Plaintiff's Exhibit No. 102-j: Notice for publication, dated April 3, 1906. Persons named therein as witnesses: William Dwyer, John Gaffney, Harvey J. Steffey and James T. Jolly.

Plaintiff's Exhibit No. 102-k: Proof of publication.

Plaintiff's Exhibit No. 102-l: Certificate of H. V. A. Ferguson, Special Agent, G. L. O., dated May 1, 1906, wherein he certifies that he has inquired into the timber application of Charles E. Loney, that the land in the same appears to be subject to purchase under the Timber Land Act, being in a forested country near the Northwest corner of the Bitterroot Forest Reserve; that he is informed by the United

States Postmaster at Frasier, Idaho, the place where the applicant receives his mail, that he owns a homestead and half interest in a sawmill; that he is [3559—189] able to buy a timber claim with his own means, and is seeking to acquire title to these lands with a view to the manufacture of the timber at his own mill. He further certifies that at that time he knows of no reason why final certificate should not issue if the proof papers are found regular and satisfactory on their face.

Plaintiff's Exhibit No. 102-m: Receiver's receipt No. 5435, dated June 19, 1906.

Plaintiff's Exhibit No. 102-n: Final certificate No. 5435, dated June 19, 1906.

Plaintiff's Exhibit No. 102-o: Certified copy of patent, dated September 11, 1907, granting to Charles E. Loney the land described in Plaintiff's Exhibit No. 102-a.

Plaintiff's Exhibit No. 102-p: Certified copy of warranty deed made and executed by Charles E. Loney and Mary A. Loney, his wife, July 11, 1906, conveying to George H. Kester and William F. Kettenbach in fee simple, the land described in Plaintiff's Exhibit No. 102-a. Consideration mentioned in the deed \$1,000.00. Acknowledged before Fred W. Judd, Justice of the Peace of Nez Perce County, July 11, 1906, and recorded at the request of the Lewiston National Bank, July 28, 1906, in the office of the Recorder of Nez Perce County, Idaho.

**Plaintiff's Exhibits Nos. 103 and 103-a to 103-l,
Inclusive, Relate to the Application and Entry
of Ivan R. Cornell.**

Plaintiff's Exhibit No. 103: Ivan R. Cornell. Occupation, bookkeeper.

Sworn statement dated and filed June 19, 1903, for the entry of Lots 6 and 7 and the East half of the [3560—190] Southwest quarter of Section 27 in Tp. 40, North of Range 1 West, Boise Meridian.

Plaintiff's Exhibit No. 103-a: Duplicate of sworn statement.

Plaintiff's Exhibit No. 103-b: Testimony of Ivan R. Cornell given at final proof, September 10, 1903.

Answer to question No. 12 thereof: \$1200.00.

Answer to question No. 13 thereof: No, sir.

Answer to question No. 14 thereof: Yes, sir.

Answer to question No. 15 thereof: No, sir.

Plaintiff's Exhibit No. 103-c: Cross-examination of Ivan R. Cornell at final proof, September 10, 1903.

Answer to question No. 6 thereof: William Dwyer.

Answer to question No. 7 thereof: I did not.

Answer to question No. 8 thereof: June 18th went all over the land inspecting the timber.

Answer to question No. 9 thereof: Mr. Dwyer showed me the lines and corners made by the surveyors.

Answer to question No. 10 thereof: 1,250,000 feet.
\$1200.00.

Answer to question No. 12 thereof: Hold it for market.

Answer to question No. 13 thereof: No, sir.

Answer to question No. 14 thereof: No, sir.

Answer to question No. 15 thereof: Troy is the nearest, 18 miles.

Answer to question No. 16 thereof: Yes, sir.

Answer to question No. 17 thereof: My folks gave me the money. E. W. Cornell of Portland, Oregon. He is my father. I have had it four or five days.

Answer to question No. 18 thereof: No, sir.

Plaintiff's Exhibit No. 103-d: Testimony of witness William F. Kettenbach given at final proof, September 10, 1903.

Answer to question No. 3 thereof: January, 1902, by going [3561—191] all over the land.

Answer to question No. 4 thereof: Not to my knowledge. Small vacant cabin.

Answer to question No. 10 thereof: No, sir.

Answer to question No. 11 thereof: No, sir.

Plaintiff's Exhibit No. 103-e: Cross-examination of witness William F. Kettenbach at final proof.

Answer to question No. 6 thereof: One year.

Answer to question No. 7 thereof: Not very well acquainted. I understand that his father has money.

Answer to question No. 8 thereof: Do not.

Plaintiff's Exhibit No. 103-f: Testimony of witness William Dwyer at final proof.

Answer to question No. 10 thereof: No, sir.

Answer to question No. 11 thereof: No, sir.

Plaintiff's Exhibit No. 103-g: Cross-examination of witness William Dwyer at final proof.

Answer to question No. 5 thereof: Myself.

Answer to question No. 6 thereof: One year.

Answer to question No. 7 thereof: Do not know.

Answer to question No. 8 thereof: I think he is.

Plaintiff's Exhibit No. 103-h: Receiver's receipt No. 4508, dated September 10, 1903.

Plaintiff's Exhibit No. 103-i: Final Certificate No. 4508, dated September 10, 1903.

Plaintiff's Exhibit No. 103-j: Certified copy of receiver's receipt issued September 10, 1903, to Ivan R. Cornell, No. 4508, for the sum received in payment for the land described in Plaintiff's Exhibit No. 103. Recorded September 14, 1903, at the request of Ivan R. Cornell in the office of the Recorder of Latah County.

Plaintiff's Exhibit No. 103-k: Certified copy of deed made and executed September 29, 1903, by Ivan R. Cornell, conveying to W. F. Kettenbach and George H. [3562—192] Kester in fee simple, the land described in Plaintiff's Exhibit No. 103. Consideration mentioned therein \$1,000.00. Recorded at the request of the Latah County Abstract Company in the office of the Recorder of Latah County, October 10, 1903.

Plaintiff's Exhibit No. 103-l: Certified copy of patent, dated September 9, 1904, granting to Ivan R. Cornell the land described in Plaintiff's Exhibit No. 103. [3563—193]

Plaintiff's Exhibit No. 104.

Indictment found, returned and filed in the United States District Court for the Northern Division of the District of Idaho, November 6, 1905, and numbered 615.

Said indictment is in five counts and charges

William F. Kettenbach, George H. Kester and William Dwyer with conspiracy to defraud the *United in* violation of Sec. 5440, R. S. U. S.

Count No. 1 charges that before and on October 26, 1904, William F. Kettenbach, George H. Kester and William Dwyer and other persons to the Grand Jury unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone, in the State of Idaho, of which the following is a part, viz.: North half of the Northeast quarter and the Southwest quarter of the Northeast quarter of Section 29, Township 39, North of Range 5 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entries under the land laws of the United States; that to effect the object of said conspiracy the said Kettenbach, Kester and Dwyer on October 26, 1904, procured and induced one Edward M. Lewis to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day; that he did not apply to purchase the land hereinbefore described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in [3564—194] truth and in fact the said Lewis made his application to enter said land in pursuance of an agreement entered into with said Kettenbach,

Kester and Dwyer to the effect that the title he would acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer, and that the said Lewis was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said first count further charges that on January 20, 1905, in further pursuance of said conspiracy the said Kettenbach, Kester and Dwyer procured the said Lewis to falsely testify at said Land Office, that since the making of his application to purchase said land he had not sold or transferred said land nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that said Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue, and that in giving said testimony the said Lewis was acting as agent of and in collusion with said Kettenbach, Kester and Dwyer. [3565—195]

Count No. 2 charges that before and on August 29, 1904, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of

the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Northwest quarter of Section 20, Township 38, North of Range 5 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on August 29, 1904, procured and induced one Hiram F. Lewis to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Hiram F. Lewis made his application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Hiram F. Lewis was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said second count further charges that on March 8, 1905, in further pursuance of said conspiracy and to effect the object thereof, the

[3566—196] said Kettenbach, Kester and Dwyer procured the said Hiram F. Lewis to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Hiram F. Lewis was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Count No. 3 charges that before and on August 23, 1904, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: North half of the Northeast quarter, North half of the Northwest quarter of Section 15, Township 38, North of Range 6 East, Boise Meridian, by means of false,

fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on August 23, 1904, procured and induced [3567—197] one Charles Carey to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Charles Carey made his application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Charles Carey was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in making of his entry. Said third count further charges that on November 18, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Charles Carey to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or

transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for [3568—198] the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Charles Carey was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Count No. 4 charges that before and on April 25, 1904, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lots 3 and 4 and the Northeast quarter of the Southwest quarter and the Northwest quarter of the Southeast quarter of Section 19, Township 39, North of Range 5 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on April 25, 1904, procured and induced one Guy L.

Wilson to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Guy L. Wilson made his application [3569—199] to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Guy L. Wilson was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said fourth count further charges that on July 13, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Guy L. Wilson to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might

inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Guy L. Wilson was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Count No. 5 charges that before and on April 25, 1904, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession [3570—200] of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lots 3 and 4 and the East half of the Southwest quarter of Section 19, Township 38, North of Range 6 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on April 25, 1904, procured and induced one Frances A. Justice to swear falsely in the sworn statement filed by her in the Land Office at Lewiston, Idaho, on that day, that she did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to her own exclusive use and benefit and that she had

not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which she might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except herself, when in truth and in fact the said Frances A. Justice made her application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title she might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Frances A. Justice was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of her entry. Said fifth count further charges that on July 13, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Frances A. Justice to falsely swear at said Land Office, [3571—201] that since the making of her application to purchase said land hereinbefore in this count described, she had not sold or transferred said land, nor had she directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title she might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that she had made the entry for the said land in good faith and for her own exclusive use and benefit and not for the use and benefit of any other person than herself and that no person, firm, corporation or asso-

ciation had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Frances A. Justice was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Plaintiff's Exhibit No. 105.

Indictment found, returned and filed in the United States District Court for the Central Division of the District of Idaho, July 13, 1905, and numbered 605.

Said Indictment is in four counts and charges Jackson O'Keefe, William Dwyer, George H. Kester and William F. Kettenbach with conspiracy to defraud the United States in violation of Sec. 5440, R. S. U. S.

Count No. 1 charges that before and on April 25, 1904, Jackson O'Keefe, William Dwyer, George H. Kester and William F. Kettenbach and others to the Grand [3572—202] Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lots 1 and 2 and the East half of the Northwest quarter of Section 30, Township 38, North of Range 6 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said O'Keefe, Dwyer, Kester and Kettenbach on April 25, 1904, procured and induced one Charles W. Taylor to swear falsely

in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Charles W. Taylor made his application to enter said land in pursuance of an agreement entered into with said O'Keefe, Dwyer, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said O'Keefe, Dwyer, Kester and Kettenbach and that the said Charles W. Taylor was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach in the making of his entry. Said first count further charges that on July 11, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said O'Keefe, Dwyer, Kester and Kettenbach procured the said Charles W. Taylor [3573—203] to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United

States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that O'Keefe, Dwyer, Kester and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Charles W. Taylor was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach.

Count No. 2 charges that before and on April 25, 1904, Jackson O'Keefe, William Dwyer, George H. Kester and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Northwest quarter of Section 19, Township 38, North of Range 6 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said O'Keefe, Dwyer, Kester and Kettenbach on April 25, 1904, procured and induced one Edgar H. Dammarell to swear falsely in the sworn statement filed by him in the Land [3574—204] Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclu-

sive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Edgar H. Dammarell made his application to enter said land in pursuance of an agreement entered into with said O'Keefe, Dwyer, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said O'Keefe, Dwyer, Kester and Kettenbach and that the said Edgar H. Dammarell was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach in the making of his entry. Said second count further charges that on July 12, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said O'Keefe, Dwyer, Kester and Kettenbach procured the said Edgar H. Dammarell to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit [3575—205] of any

other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that O'Keefe, Dwyer, Kester and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Edgar H. Dammarell was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach.

Count No. 3 charges that before and on April 25, 1904, Jackson O'Keefe, William Dwyer, George H. Kester and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lots 3 and 4 and the East half of the Southwest quarter of Section 18, Township 38, North of Range 6 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said O'Keefe, Dwyer, Kester and Kettenbach on April 25, 1904, procured and induced one Edgar J. Taylor to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might

acquire from the Government of the United States would inure in whole or in part to [3576—206] the benefit of any person except himself, when in truth and in fact the said Edgar J. Taylor made his application to enter said land in pursuance of an agreement entered into with said O'Keefe, Dwyer, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said O'Keefe, Dwyer, Kester and Kettenbach and that the said Edgar J. Taylor was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach in the making of his entry. Said third count further charges that on July 11, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said O'Keefe, Dwyer, Kester and Kettenbach procured the said Edgar J. Taylor to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that O'Keefe, Dwyer, Kester and Kettenbach at the time of the

making thereof knew it to be false and untrue and that in giving said testimony the said Edgar J. Taylor was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach. [3577—207]

Count No. 4 charges that before and on April 25, 1904, Jackson O'Keefe, William Dwyer, George H. Kester and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lots 1 and 2 and the East half of the Northwest quarter, Section 18, Township 38, North of Range 6 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said O'Keefe, Dwyer, Kester and Kettenbach on April 25, 1904, procured and induced one Joseph H. Prentice to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Joseph H. Prentice made his applica-

tion to enter said land in pursuance of an agreement entered into with said O'Keefe, Dwyer, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said O'Keefe, Dwyer, Kester and Kettenbach and that the said Joseph H. Prentice was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach in the making of his entry. Said fourth count further charges [3578—208] that on July 11, 1904, in further pursuance of said conspiracy and to effect the object thereof, the said O'Keefe, Dwyer, Kester and Kettenbach procured the said Joseph H. Prentice to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that O'Keefe, Dwyer, Kester and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Joseph H. Prentice was acting as the agent of and in collusion with the said O'Keefe, Dwyer, Kester and Kettenbach.

Plaintiff's Exhibit No. 106.

Indictment found, returned and filed in the United States District Court for the Central Division of the District of Idaho, July 13, 1905, and numbered 607.

Said Indictment is in three counts and charges William F. Kettenbach, George H. Kester and William Dwyer with conspiracy to defraud the United States in violation [3579—209] of Sec. 5440, R. S. U. S.

Count No. 1 charges that before and on April 25, 1902, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Latah in the State of Idaho, of which the following is a part, viz.: Southwest quarter of Section 29, Township 42, North of Range 1 West, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on April 25, 1902, procured and induced one Rowland A. Lambdin to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might ac-

quire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Rowland A. Lambdin made his application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Rowland A. Lambdin was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said first count further charges that on July [3580—210] 22, 1902, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Rowland A. Lambdin to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it

to be false and untrue and that in giving said testimony the said Rowland A. Lambdin was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Count No. 2 charges that before and on May 5, 1902, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Latah in the State of Idaho, of which the following is a part, viz.: East half of the Northwest quarter and the Southwest quarter of the Northeast quarter and the Northwest quarter of the Southeast quarter of Section 27, Township 40, North of Range 1 West, Boise Meridian, by means of false, fraudulent, [3581—211] untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on May 5, 1902, procured and induced one Fred W. Shaeffer to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in anyway or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Fred W. Shaeffer

made his application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Fred W. Shaeffer was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said second count further charges that on July 25, 1902, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Fred W. Shaeffer to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with [3582—212] any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Fred W. Shaeffer was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer.

Count No. 3 charges that before and on June 19, 1903, William F. Kettenbach, George H. Kester and William Dwyer and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Latah in the State of Idaho, of which the following is a part, viz.: Lots 6 and 7 and the East half of the Southwest quarter of Section 27, Township 40, North of Range 1 West, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Kettenbach, Kester and Dwyer on June 19, 1903, procured and induced one Ivan R. Cornell to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract [3583—213] in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Ivan R. Cornell made his application to enter said land in pursuance of an agreement entered into with said Kettenbach, Kester and Dwyer to the effect that the title he might acquire from the Government would inure to the benefit of the said Kettenbach, Kester and Dwyer and that the said Ivan R. Cornell

was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer in the making of his entry. Said third count further charges that on September 10, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Kettenbach, Kester and Dwyer procured the said Ivan R. Cornell to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Kettenbach, Kester and Dwyer at the time of the making thereof knew it to be false and untrue and that in giving said [3584—214] testimony the said Ivan R. Cornell was acting as the agent of and in collusion with the said Kettenbach, Kester and Dwyer. [3585—215]

Plaintiff's Exhibit No. 107.

*In the District Court of the United States for the
Northern Division, District of Idaho.*

Number 615.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER, and WILLIAM DWYER,
Defendants.

**Affidavit in Support of Motion for a Change of Place
of Trial.**

State of Idaho,
County of Latah,—ss.

William F. Kettenbach, George H. Kester and William Dwyer being each duly sworn for himself and not one for the other, says:

That they, and each thereof, are defendants in the above entitled cause. That they were first indicted on the 13th day of July, A. D. 1905, charged with a violation of Sec. 5440, R. S. U. S., conspiring to defraud the United States by fraudulently acquiring title to timber lands; and was again indicted for the same offense on the 6th day of November, A. D. 1905; and again, on the 22d day of March, A. D. 1907; and again, on the 12th day of April, A. D. 1907; and again, on the day of November, A. D. 1909, for the same offense.

That the defendant, William Dwyer, was indicted upon the charge of subornation of perjury on the 6th

day of November, 1905, and the defendant, George H. Kester, was indicted upon the charge of subornation of perjury [3586—216] on the 6th day of July, 1905; that all of said indictments related to the charge of fraudulently acquiring title to timber lands in the Northern Division, District of Idaho.

That there are, at this time, pending against these defendants, or a portion thereof, eleven indictments, all of which are pending in this Court.

That each and all of said indictments are very voluminous and contain charges which are calculated and intended to prejudice the defendants, and inflame the minds of the general public, and bring great odium upon these defendants and cause each thereof, inconvenience and annoyance.

That each and all of said indictments contain many counts, and will, in fact, aggregate forty or fifty indictments and that each and all of the charges therein alleged, have been widely published and circulated throughout the Northern Division of the District of Idaho, and have been extensively discussed by the citizens, residents and inhabitants of said Northern Division, of the District of Idaho, and especially by citizens who will be called upon to act as jurors in the trial of the said cause, and that such publications have been so extensive and the discussion so great, and the agitation so intense, that affiants firmly believe that a jury could not be obtained in the Northern Division of the District of Idaho, who have not heard and participated in such discussions, and who have not formed an opinion as to the guilt or innocence of the defendants, and who possess prejudices

against the defendants on account of such publications, circulations and discussions.

That a great many people have been engaged in acquiring title to timber lands within the Northern Division, District of Idaho, some by purchase, some by [3587—217] location under the Timber and Stone Act, and some under the Homestead Laws of the United States.

That as a result of the sharp competition for various tracts of land, and especially those covered with valuable timber, many contests have resulted, and in many of which the defendant, William Dwyer, has been a party, and in many of which contests the defendant, William Dwyer, has been required to appear and defend and prosecute for the purpose of protecting his property interests. That in most all of such contests, the defendant, William Dwyer, has been successful, and by reason of the fact that the indictments and accusations charged the defendant Dwyer, and the defendants, Kester and Kettenbach, jointly. The prejudices existing against the defendant Dwyer, also existed against the defendants, Kester and Kettenbach.

That when a contest was instituted, the citizens and residents within the community in which the parties reside, take sides one way or the other, and by reason thereof, strong local prejudices have been aroused against these defendants, and that all of these contests have been heard in the Lewiston Land Office, and all of the land is situated within the Lewiston land district, and within the Northern Division of the District of Idaho, and by reason of the various

contests which have been waged, heard, considered and determined, there are many localities and neighborhoods in which these prejudices have been aroused against the defendants herein by reason of such contests, and from these various localities, jurymen will be selected to act as jurors in the trial of this cause.

That, during the year from 1900 to 1904 & 5, the defendants herein were prominent in politics in the State of Idaho, and especially within the Northern Division [3588—218] of the District of Idaho. That a political party to which these defendants belong, was divided into two political factions; one known as the Galord W. Thompson and Miles S. Johnson faction, designated as the Thompson-Johnson faction, and one known as the Kester, Kettenbach & West faction, composed of the defendants herein, and J. B. West who was formerly Register of the United States Land Office at Lewiston, Idaho.

That during the campaign of 1904, there was a bitter contest for local supremacy, both in the primaries in the convention during the campaign, and during the election.

That the faction known as the Kester, Kettenbach & West faction were successful in the primaries in the convention and in the election.

That during these campaigns bitter feeling was aroused between the leaders of these two factions. That this feeling grew so intense, and the contest waged so warm and bitter, that it created a bitter feud, which has existed since that time, and the intense feeling and bitterness between the different parties is greater to-day than it ever has been at any

time in the past.

That on account of this bitter feud many personal attacks have been made upon these defendants, and especially upon the defendants Kester and Kettenbach. Many inflammatory articles have been published in the newspapers of wide circulation throughout the Northern Division of the District of Idaho, containing many accusations against the defendants herein, and many charges of various kinds and nature, and many circulars were sent out and scattered broadcast throughout the said District, during the campaign of 1904, and especially during the month of November, 1904, charging these defendants with various [3589—219] offenses, containing false statements, all of which tend to and did prejudice these defendants in the minds of the general public, and created an intense feeling against the defendants throughout the Northern Division, of the District of Idaho, and during the fore part of the month of November, 1904, there was printed, published and circulated, a two-page circular containing various charges against the defendants herein, and in which the defendant, William Dwyer, was referred to as the “notorious Bill Dwyer” and in which the defendants, Kester and Kettenbach was referred to as “land thieves” and as people unworthy of public trust, and in which the said John B. West was referred to as a purchaser of votes, like so many sheep or cattle, and purported to have emanated from a committee of citizens from the Northern Division of the District of Idaho, which circular is attached hereto and made a part hereof and that various

charges contained in said circulars was printed, published and circulated in the newspapers throughout the Northern Division of the District of Idaho, were widely published and discussed by the various citizens of said District, and by the inhabitants who will, no doubt, be called as jurors to try and determine the guilt or innocence of the defendants in this cause.

That immediately after the election of 1904, N. M. Ruick was appointed United States Attorney for the District of Idaho, and Miles S. Johnson, a member of the Thompson-Johnson faction heretofore referred to, was appointed Assistant United States Attorney, and these defendants were, thereafter, immediately charged with conspiracy to defraud the Government by the unlawful acquisition of timber lands within the Northern Division of the District of Idaho.

That, upon the filing of the first indictments [3590—220] in the month of July, A. D. 1905, the newspapers of wide circulation throughout the Northern Division of the District of Idaho, and especially the *Spokesman Review*, a daily paper published at Spokane, in the State of Washington, and of wide circulation throughout the Northern Division of the District of Idaho, and *The Lewiston Evening Teller*, a daily paper printed and published at the City of Lewiston, in the State of Idaho, and of wide circulation throughout the Northern Division of the District of Idaho, each and all of which papers were and have been and now are unfriendly to the defendants, published and caused to be circulated the various charges contained in said indictments, and also

printed and published stories in double leaded and glaring headlines, charging these defendants and also commented upon the charges editorially, which comments placed the defendants in the position of being *theives*, *scounderals* and unworthy of public trust, and each and all of said articles and stories were highly inflammatory in character, and did prejudice the defendants in the minds of the general public and the citizens of the Northern Division, of the District of Idaho, and which publications caused the said charges to be widely discussed throughout said District by and among the citizens thereof from whom a jury, of necessity must be selected in case a trial is had in the said District. And upon the convening of each term of court after the said indictments were returned in July, 1905, these defendants were indicted, called upon to plead thereto, and furnish bonds for their appearance, and the newspapers would, upon each occasion print and publish statements concerning the charges and statements calculated to and which did prejudice these defendants in the minds of the general public [3591—221] throughout the said District, and upon the occasion of any proceedings being had in relation to such charges, or the indictments, the said publications would be again resumed, and for a long space of time, there was hardly a publication of the said Lewiston Evening Teller or The Spokesman Review when these defendants were not attacked, either editorially or by a story with glowing headlines so as to attract attention, and so that the same would be discussed by the general public and the citizens throughout the

Northern Division of the District of Idaho, and that all of such publications would create a strong prejudice against the defendants, which prejudice exists at the present time.

That during all the times the said articles, publications stories and editorials were being circulated, nothing favorable to the defendants had been written, published or circulated, for the reason that the defendants could not, at that time, set forth their defense for the purpose of defending against public sentiment or defending themselves against the unwarranted actions which were then being made, save and except a general statement of the evidence which was introduced in behalf of the defendants during a trial of the above entitled cause hereinafter referred to.

Affiants attach hereto a few of the articles, publications and stories which were published in the *Spokane Review* and the *Lewiston Evening Teller*, and were widely circulated and read by the various citizens of the Northern Division of the District of Idaho, and that many articles were written, published, circulated and read by the various residents of said District in and for the Northern Division, which affiants do not have at this time, and which articles were more severe and more extensive, and the attacks more various than the ones contained in the [3592—222] articles attached hereto.

That each and all of the attacks publications, articles, reports and editorials have continued up to the present time, and the same are still being read and discussed by the various citizens, residents and in-

habitants of the Northern Division of the District of Idaho.

That at the May, 1907, term of this Court, affiants were tried upon one of said indictments, to-wit, 615, and during the examination of the jury upon their *voir dire*, as affiants now remember, each and every juror stated they had read accounts of the charges against affiants in various forms, and most of whom had read the same in the *Spokesman Review* and a few thereof had read such accounts in the *Lewiston Evening Teller*, and some in other papers published and circulated in the Northern Division of the District of Idaho.

That each and all of said jurors, as affiants now remember, stated that they had heard the same discussed, and most all of whom had participated in the discussion.

That after using every effort to obtain a fair and impartial jury, these defendants were unable to do so, and were compelled to go to trial and submit their case to a jury who possessed strong prejudices against the defendants and who did not give defendants a fair and impartial trial.

That a verdict of guilty was returned against these defendants, and thereafter, these defendants filed their motion and application for a new trial, and filed numerous affidavits in support thereof, showing prejudice and misconduct on the part of the jury, which affidavits are now on file in this Court and in this cause to which the defendants here refer and make the same a part hereof [3593—223] as fully as if here set out, and defendants therefore ask that

such affidavits be considered by the Court in determining their application for a change of a place of trial.

That the trial of said cause at the May, 1907, term, consumed approximately, five weeks time, including the argument of preliminary motions, the taking of evidence, and during each and every day during the trial of said cause and for many days prior thereto and for many days subsequent to such trial, and during each issue of *The Spokesman Review*, and *The Lewiston Evening Teller*, these defendants were attacked and in scandalous articles published by the said two papers, and the wide circulation throughout the Northern Division of the District of Idaho, and the articles were extensively read and extensively discussed by the various residents, citizens, and inhabitants of the said Northern Division of the District of Idaho, and which articles continued to inflame the public mind and the mind of the inhabitants of the said District and the *person* from whom a jury must be selected in case the defendants were again tried in the Northern Division of the District of Idaho.

That said cause was thereafter taken to the United States Circuit Court of Appeals upon writ of error and was by said Court revised and remanded for a new trial and that the publications, editorials and inflammatory articles have continued and at each time a decision was rendered or any proceedings had in the cause, the said papers, to-wit, *The Spokesman Review* and the *Lewiston [3594—224] Evening Teller* did print stories and articles prefaced by

heavy, large and glowing headlines attacking these defendants and unjustly accusing them, which articles calculated to and did inflame the mind of the general public, and did create a strong prejudice against these defendants, and the discussions will continue up to the time of the trial.

That the same is more acute now than ever before, and the said two newspapers hereinbefore referred to, will continue to publish and circulate false and inflammatory articles, and will continue to inflame the minds of prospective jurors more and more and the prejudice is, at the present time, and will be so great that the defendants' counsel will be unable to learn by an examination of the jurors, whether or not they are prejudiced, and that many of the jurors will actually say they have no prejudice against these defendants, when in truth and in fact, they have. This condition does and will exist as these affiants and each thereof, verily believe.

That in the month of June, A. D. 1909, the officers of the Lewiston National Bank, with whom the defendants, Kester and Kettenbach were formerly officers, and in which institution the said Kettenbach is a heavy stockholder, discovered a heavy defaultcation. Two of the employees of the bank, who were employed during the time the defendant Kettenbach was President, and the defendant Kester, Cashier, was charged with the defaultcation and upon a preliminary examination were bound over to the United States Grand Jury, which is now in session.

That immediately upon the discovery of such shortage the said Spokesman Review and the said

Lewiston Evening Teller, began the publication of defamatory articles, and endeavored to connect the said shortage, consisting of [3595—225] about \$137,000 with the defendants, and the timber transactions, and that these publications continued and have continued up to the present time, which publications renewed the discussion of the timber matters and the various charges against these defendants, and did continue to prejudice these defendants in the mind of the general public and which articles intended to and did place the defendants in an unfavorable light before the people of the Northern Division of the District of Idaho from whom it will be necessary to draw a jury to determine this cause in case the same is tried before a jury in the Northern Division, of the District of Idaho at the town of Moscow therein.

That the grand jury has been engaged in the investigation of the said bank default, to wit, the Lewiston National Bank, for a period of two weeks, and during such times, various articles have been published and are being published relative to these defendants and the various charges pending against them, and the said grand jury within the ten days last past, has returned an additional indictment against these defendants charged with a violation of Section 5440, conspiracy to defraud the Government in the acquiring of title to timber lands, and that this new indictment has revived the discussion, and the same is now so great and so intense and the public mind is in that condition that it will be impossible for these defendants to have a fair and impartial trial.

That subsequent to the trial, these defendants, and

subsequent to the appeal to the Circuit Court of Appeals by Writ of Error, there has been three civil suits filed seeking the cancellation of patents, to approximately 10,000 acres of timber lands within the Northern Division of the District of Idaho. [3596—226]

That a *lis pendens* was filed which includes not only land belonging to these defendants, but land belonging to other entrymen and such land is clouded by such *lis pendens* so that the owners of the land cannot sell or dispose of the same at the present time.

That these civil suits are instituted by a Bill of Complaint which is very voluminous, charges the defendants with conspiracy to defraud the Government out of large tracts of timber, charges these defendants with perjury and subornation of perjury, fraud and deceit, and the charges contained in the bills in equity to cancel such patents have been widely published and discussed by the various citizens throughout the Northern Division of the District of Idaho, and by reason of such discussion, the people generally from whom a jury is to be furnished have formed their opinions relative to the guilt or innocence of the defendants, and by reason thereof, the discussion of the charges, publication and circulation of newspaper articles in regard thereto, have been revived and will continue up to the time of the trial of this cause.

That the two newspapers referred to, to wit, The Spokesman Review and The Lewiston Evening Teller, do not circulate to any great extent within the Central Division of the District of Idaho, and none of

the land involved in question is situate within the Central Division of the District of Idaho, and none of the defendants reside therein, and that the same prejudices do not exist in the Central Division as exists in the Northern Division.

That the Government agents and the various parties who are enemies of the defendants herein continue to circulate reports throughout the Northern Division and seize upon every opportunity presented for the purpose of causing the discussion of the charges against the defendants herein, and seek to present the same in the most unfavorable [3597—227] light for the defendants and seek to prejudice the minds of the general public against these defendants and all of such discussions and publications of articles has aroused a prejudice against the defendants within the Northern Division of the District of Idaho, but does not exist within the Central Division of the District of Idaho.

That on account of such prejudices which actually *does* exist against these defendants and each thereof in the Northern Division in the District of Idaho, affiants upon their oaths, state that they cannot have a fair and impartial trial at Moscow in said District, and they, these defendants and affiants most respectfully asks for a change of place of trial to Boise, in the Central Division of the District of Idaho.

WILLIAM F. KETTENBACH.

GEORGE H. KESTER.

WILLIAM DWYER.

Subscribed and sworn to before me this —— day
of November, A. D. 1909.

[U. S. D. Court Seal] A. L. RICHARDSON,
Clerk.

Oct. 1904.

AN EXPOSURE OF KESTER AND KETTEN- BACH'S TIMBER FRAUDS.

How they have robbed the state of more than 10,000
acres of valuable timber land.—How they
hope to continue their graft through
control of the Local Political
organization.

The bill admitting the Territory of Idaho as a
State of the Union provided that the State of Idaho
should receive from the General Government the
following amount of land for the following purposes:

“For the establishment and maintenance of a
scientific school, 10,000 acres; for the support and
maintenance of the insane asylum, located at Black-
foot, 50,000 acres; for the support and maintenance
of the State University, located at Moscow, 50,000
acres; for the support and [3598—228] mainte-
nance of the penitentiary, located at Boise City,
50,000 acres; for other State, charitable, educational,
penal and reformatory institutions, 150,000 acres.”

The “Other charitable, educational, penal and re-
formatory institutions,” are the Soldiers’ Home,
Orphans’ Home, etc.

The method of selecting these lands is provided for
in Section 241 of the Idaho Code, which reads as fol-
lows: “The State Land Board shall appoint one or
more suitable persons to perfect the selection and

location of all lands granted or to be granted to the State by the United States Government; the person or persons so appointed as aforesaid shall receive a compensation of \$5.00 per day.”

The Federal law also provides that after Government land, under certain conditions, is thrown open for settlement that the State shall have 60 days prior right to select such land as it desires. And not until these 60 days have expired has any individual any right to settle upon or make selections of the land.

The financial stability and future growth and usefulness of the educational institutions of our State, the founding, equipping and maintenance of our Soldiers' Home, Orphans' Home, and caring for our unfortunate insane, were matters anticipated by the General Government, and for which these grants were extended. Therefore the future welfare of our University and Normal schools, of which our citizens are justly proud, and which every good citizen should be willing to defend, depends upon the wisdom and honesty used in making the selections of State lands.

If it can be shown you that the State has been robbed, through its agents, of thousands of acres of valuable land, and that many thousands of acres selected by the State through these agents, are absolutely valueless, and that this fraud is perpetrated by people living in this county, in this city, your neighbors and perhaps your *person* friends, what are you going to do about it? Suppose they had personally robbed you of your birthright? Suppose they had robbed your old mother or father, your daughter or your son, suppose they had been placed in a confiden-

tial position with yourself and had taken advantage of that relation and robbed you of your home, what then would you think and do about it? There is no question what a man of any stamina would do. He would follow the despoilers to the furthest ends of the earth, if necessary, to force them to disgorge the ill-gotten gains, and you certainly would not support him nor help to place him in a position to again rob you and yours.

Now, what are the facts regarding the last land selections from several townships thrown open for settlement in the past six months, the townships especially referred to being No. 38, 5 East, opened for settlement February 24, 1904; No. 38, 6 East, opened for settlement February 24, 1904, and No. 39, 4 East, opened for settlement April 22, 1904. Besides these are Townships Nos. 39, 5 East; 40, 5 East; 39, 6 East and 40, 6 East, opened for settlement February 24, 1904; also Township 37, 6 East, opened for settlement April 8, 1904. [3599—229]

In the important work of selecting these lands you will agree that capable, honest men, and only those interested in securing the best lands in the State should be employed, because it lies solely in the hands of the selector to choose lands with good timber or poor timber; to choose that which in the future, provide a great fund for our institutions, or that which will leave them bankrupt. You will agree that those men who were employed for this important work should not be in the employ of individuals who are dealing in timber lands; you will agree that they should be agents solely of the State, and not also of

timber speculators. If you should learn that the State employed for this purpose men not only not honest, not capable, not disinterested, but on the contrary dishonest, irresponsible men, and men in the employ of timber speculators, what *would think* the natural result would be? And this is what has occurred:

Through the influence of George H. Kester and the Kettenbachs, with whom is associated politically J. B. West, Register of the U. S. Land Office, and who acted as "ward heeler" in the last two Republican primaries and purchased votes, as he says with much criminal glee, as he would sheep pelts *an* for about the same price, in behalf of his friends and pals, Kester and Kettenbach, and still is in the employ of the Lewiston National Bank people, appointed local selector of lands for the State, and also Melvin Scott, who is known in Lewiston as the "dog catcher." These are the men who were appointed to the responsible position of selecting lands for the State. In Township 39, 4 East, this man Scott, in company with Dwyer, selects in four days, 9,860 acres of land, nearly all of which is covered with buckbrush and is virtually worthless. Out of this township the Kettenbachs secured several hundred acres of land covered with valuable timber. From competent authority the land that the Kettenbachs secured, while very much smaller in area, has more timber on it than all the State land in this Township. This Township was opened for settlement on April 22, 1904.

In Township 38, 5 East, and Township 38, 6 East,

Bill Dwyer selected the land both for the State and Kester-Kettenbachs and their friends.

The State, under the law, should pay him \$5.00 per day for his service. Under oath in a case in the United States Land Office, he swore that all timber he scripped for others he secured a one-third interest in the deal. Who did he serve, under the circumstances, God or Mammon? The records show that he served Mammon, for upon the land secured by Kester and Kettenbach was secured by scrip, and other tracts were left to be filed upon by stone and timber filings by their agents.

In townships 38 and 39, 5 East, we find such names as Geo. H. Kester, Edna P. Kester, Elizabeth Kettenbach, Elizabeth White, William White, Mamie White and a score of other names which need no explanation, all friends, relatives and agents of the timber speculators.

This land should belong to the State of Idaho. It is the choicest land in these townships. It was selected by the agent of the state, while in the state's employ, for these people. [3600—230]

These townships in which these enormous crimes and wrongs have been committed were thrown open for settlement on February 24, 1904.

The other five townships show the same class of fraud. Thousands of acres of valuable timber land have been taken from the State and Government by these people, aggregating around \$1,000,000 of actual value, and they are continuing their graft even unto the present time.

These are the same people who have sunk more

than \$11,000 in the Evening Teller during the past year, and which now is in the hands of a receiver. All this for newspaper protection and political prestige, that they might control *and* local republican organization, and this cost them another \$10,000, that they might select men for county and legislative offices who would do their bidding in their respective places. They are the ones who are now spending money lavishly to elect their man, William Schuldt, for county treasurer, that they might continue to have the use of the county funds for more and continued grafting.

Every honest citizen of this county should condemn these people by voting against their candidates on November 8.

This is no *more* talk for political purposes. Investigations are now being made, the papers *draw* as rapidly as possible, and evidence being marshaled and immediate demands are to be made for investigation of these matters by the department at Washington.

In California, Oregon and other states, land office officials and timber grafters are being prosecuted and sent to the penitentiary and subjected to heavy fines for similar frauds.

The records of the land office show that the statements herein are true. You can go to the land office and investigate for yourself.

These acts are being protected by the friends of these people, and no newspaper in Lewiston has independence sufficient to give publicity to them, and instead of meeting these charges openly like men the

Republican central committee has seen fit to send its workers to the country precincts at the last day to deny them privately and in the absence of anyone who *have* full knowledge of the facts, and it has therefore become necessary to apprise the public of what is going on by this method.

A volume could be written in regard to these matters, but the foregoing will be sufficient to warn the public of the criminality in our midst by the assumed financial, social and political leaders.

CITIZENS COMMITTEE. [3601—231]

LEWISTON BANK POWER IS BROKEN.

Morning Tribune Makes Desperate Fight to Save Its Creditors.

Build up Political Machine.

Cruiser Located Good Timber for Them and Gave State Worthless Tracts.

LEWISTON, Idaho, July 2:—Since the Government has secured the conviction of what is known as the Lewiston National bank crowd the people of Lewiston generally have accepted the verdict and are rapidly becoming accustomed to the new state of affairs. In securing convictions of two of the highest officers in the bank, as well as the bookkeeper and their timber locator, the Government has destroyed the strength of a coterie of able men who have for years dominated business and politics in this city and section. W. F. Kettenbach, one of the defendants found guilty of conspiracy and sentenced to serve eight months in a county jail, has been a factor in Lewiston for years.

About 19 years ago George Kester, now the cashier

of the bank and jointly convicted with Kettenbach of conspiracy and sentenced to serve eight months in jail and pay a fine of \$1,000.00, came into a humble position with the Lewiston National bank, serving as janitor. He was a young man of bright promise and his rise into a position of authority was remarkable. Without any capitol he managed to work his way up until he became cashier, a position he still holds, in the meantime amassing considerable capital from fortunate investments. For years the Lewiston National bank led in business and deposits and was considered the strongest bank in town.

At that time, which lasted until the memorable campaign in 1904, when Theodore Roosevelt was elected, the coterie was in the heyday of power in business and politics. With them in their business of securing timber lands, a business they were then industriously pursuing, was "Bill" Dwyer, who had come out from the Michigan woods, where he had obtained a knowledge of timber values seldom possessed by ordinary timber locators.

SCHOOL FUND IS ROBBED.

About this time the state was selecting timber from the Government forests which were soon to be opened for entry. The bill admitting Idaho as a state provided that the new state should receive from the Government about 4,000,000 acres of land which was to be used to support various charitable, educational, penal and reformatory institutions. The method provided for the selection was devised to protect the state and assure a selection of the best available land. The state land board was given the power to appoint

competent timber cruisers to select the land, the Government giving them 60 days in which to exercise their prior right of selection, and not until these 60 days had expired could any [3602—232] individual settle on or select any of the land for entry. Through the political machine they had built the crowd secured the appointment of William Dwyer as state selector, he at that time being employed also by the Lewiston National bank crowd in the capacity of timber cruiser. Melvin Scott, known in Lewiston as the "dog catcher," was the other state selector.

Then began the gigantic conspiracy charged by the Government which not only defrauded the Government but also the State and unborn generations of school children who have been shorn of their rights by inferior selection of timber. Dwyer and Scott selected for the state a great deal of comparatively worthless land, much of it being covered with nothing more valuable than buckbrush. At the same time Dwyer selected a large portion of the 19,240 acres now *owned the* Kester-Kettenbach crowd and which the Government will soon attack in order to cancel the patents of this valuable land, easily worth \$500,000, and probably close to a million dollars.

STATE GOT WORTHLESS LAND.

Simply to cite a specific instance of the *farcial* means of selecting state land it may be stated that in township 39, 4 east, Dwyer selected in four days 9860 acres for the state all of which is virtually worthless, and in this same township the Kettenbachs secured several hundred acres covered with valuable timber and on these small holdings in this township more

valuable timber stands than on all the state land in the same township selected by Dwyer. This township was thrown open for settlement April 22, 1904. Five other townships in the same forest were handled in the same way and Idaho and the public institutions have been deprived of their just inheritance which would have been a source of ever increasing revenue and would in time have made the schools in a measure self-supporting.

In order to carry out these gigantic schemes the Kettenbach-Kester crowd built up a political machine in county and city politics, they acting as task masters over their agents who filled the offices.

But the political control was not sufficient, for the same crowd reached out and secured control of a newspaper, the Lewiston Morning Tribune, which has greatly aided them in their schemes. During the land fraud trials, many citizens here say, the Tribune colored its news in favor of the defendants in a manner so open as to excite comment.

A well-known attorney who followed the cases closely in the newspaper accounts said that had not the trial judge been exceedingly lenient the Tribune would have been cited for contempt of court. Judge Dietrich, however, aimed to extend every legitimate right to the defendants and no notice was taken of the Tribune.

A reason for the colored stories which appeared in the Tribune is easily traced. On record in the courthouse is a mortgage on the Tribune building and lot and also on the home of Albert H. Alvord, one of the owners of the paper. This mortgage was drawn

January 9, 1903, and was recorded three days later. The mortgage was for [3603—233] \$7000 and was to run for three years, drawing interest at 8%. Additional significance is given to this financial arrangement by the statement that the mortgage is now 18 months past due, and still remains unpaid and not renewed. While it is impossible to state the amount of paper unsecured that is held by the Lewiston National bank against the Tribune, it is estimated by men who are in a position to know that the owners of the paper owe to the Lewiston National bank \$12,000 or \$15,000, which is sufficient to give practical control of the paper to the bank. Citizens here say that they control the course of the paper not only in an editorial way, but in a coloring of news which would reflect discredit on the bank crowd. [3604—234]

In the District Court of the United States for the Northern Division, District of Idaho.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER and WILLIAM DWYER,

Defendants.

Affidavit of George J. Vinnegarholz.

State of Idaho,

County of Latah,—ss.

J. George Vinnegarholz, being duly sworn, upon oath says:

That he is a resident of the County of Latah, in

the Northern Division of the District of Idaho. That he is well acquainted in each county of the district, having been a resident of said district for more than twenty years, and having held various official positions in said district, among them being County Assessor of Latah County in said district, Deputy Clerk of the District Court, and various other positions. That he has frequently heard the charges against the defendants discussed by various citizens, residents and inhabitants of said district.

That affiant has read the affidavit of defendants herein and each and every part thereof, and that affiant believes that every statement therein made relative to the prejudice existing against the defendants to be true. That from the discussion which affiant has heard and from the expressions of citizens and the general public, affiant firmly believes that the said defendants cannot have a fair and impartial trial in the Northern Division, District of Idaho.

J. GERGER VINNEGARHOLZ.

[3605—235]

Subscribed and sworn to before me this —— day of Nov., A. D. 1909.

[N. P. Seal]

S. R. H. MCGOWAN,
Notary Public.

Endorsed: No. 615. United States of America, vs. William F. Kettenbach et al. Application and Motion and Affidavits for Change of Venue. Filed Nov. 19, 1909. A. L. Richardson, Clerk. Rec'd copy Nov. 19, 1909. Peyton Gordon.

Filed as Complainant's Exhibit No. 107. Nov. 7, 1910. A. L. Richardson, Clerk U. S. Circuit Court. [3606—236]

Plaintiff's Exhibit No. 108.

In the District Court of the United States, for the Northern Division, District of Idaho.

No. 606.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE H. KESTER,

Defendant.

Application and Motion for Change of Venue.

Comes now the defendant herein, George H. Kester, and moves the above-entitled court for a change of venue in this cause from the Northern Division, District of Idaho, to the Central Division, District of Idaho, upon the ground and for the following reasons:

1.

That owing to local prejudice and hostile influence, this defendant cannot have a fair and impartial trial at Moscow, in the Northern Division, District of Idaho, and therefore moves this court for a change of venue, and that said cause be transferred to the Central Division of the District of Idaho, at Boise, the same to be tried at such time as the Court may order.

2.

This application is based upon the annexed affidavit and also upon all the records and files in the

above cause; also, upon the transcript on appeal now on file in the above-entitled court, in case No. 615, The United States of America, plaintiff, v. William F. Kettenbach, George H. Kester and William [3607—237] Dwyer, Defendants, and especially the affidavits in support of motion for a new trial in said cause; also, the affidavit of William F. Kettenbach, George H. Kester and William Dwyer, on file in case No. 615, The United States of America, plaintiff, v. William F. Kettenbach, George H. Kester and William Dwyer, Defendants, in support of motion for change of venue in said case No. 615, charging conspiracy to defraud the United States in violation of Section 5440, a true copy of which affidavit is attached hereto and made a part hereof, and reference to the original affidavit on file in the above entitled court is also made; also, the affidavit of J. George Vinnegarholz, on file in the above entitled court in case No. 615, The United States of America, plaintiff, v. William F. Kettenbach, George H. Kester and William Dwyer, defendants, in support of motion for change of venue in said cause, a true copy of which affidavit is hereto attached, and reference is hereby made to the original affidavit on file in said case No. 615; also, the exhibit attached to the affidavit of William F. Kettenbach, George H. Kester and William Dwyer, entitled, "An exposure of Kester and Kettenbach's Timber Frauds," a true copy of which is attached hereto and made a part hereof; also, the exhibit entitled, "Lewiston Bank Power is Broken," now on file in support of the application for change of venue in case No. 615; also, affidavit

of Geo. W. Tannahill in support of motion for change of venue in case No. 615, and the affidavit of Geo. E. Erb, on file and of record in the same case, and the exhibits attached to said affidavits, entitled, "Former Foe Pleads for Timber Trio," and "Present Absurd Pleas," true copies of which are hereto attached and made a part hereof, and reference is here made to the original exhibits and affidavits [3608—238] on file in the said case No. 615.

3.

Upon the argument of said motion, the defendant will read and use such other records, documents, affidavits and evidence as are on file in said case No. 615, *The United States of America, Plaintiff, v. William F. Kettenbach, George H. Kester and William Dwyer, defendants*, including such parts of the transcript on appeal to the United States Circuit Court of Appeals for the Ninth Circuit, as the said defendant may see fit to read and use on the argument of said motion.

WHEREFORE, this defendant prays that his application for a change of venue be granted and that the said cause be transferred to the Central Division, District of Idaho, and tried at Boise therein.

FORNEY & MOORE,

Attorneys for Defendant, Residing at Moscow,
Idaho.

GEO. W. TANNAHILL,

Attorney for Defendant, Residing at Lewiston,
Idaho.

CAVANAH & BLAKE,

Attorneys for Defendant, Residing at Boise, Idaho.

State of Idaho,
County of Nez Perce,—ss.

GEO. W. TANNAHILL, being duly sworn, upon oath says: That he is one of the attorneys for the defendant above named; that the foregoing application is made in good faith and not for the purpose of delay, and as affiant verily believes, is well founded in point of law.

GEO. W. TANNAHILL.

Subscribed and sworn to before me this 16th day of April, 1910.

[Seal]

H. K. BARNETT,

Notary Public in and for Nez Perce County, State of Idaho. [3609—239]

In the District Court of the United States for the Northern Division, District of Idaho.

No. 606.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE H. KESTER,

Defendant.

Affidavit in Support of Application for Change of Venue.

State of Washington,
County of Spokane,—ss.

George H. Kester, being duly sworn, upon oath says: That he is the defendant above named; that he has reason to believe and does believe that he cannot have a fair and impartial trial at Moscow, in the

County of Latah, State of Idaho, and within the Northern Division, District of Idaho, on account of local prejudice existing against affiant in said district.

That affiant is one of the defendants named in Indictment No. 615, in the case of The United States of America, plaintiff, v. William F. Kettenbach, George H. Kester and William Dwyer, defendants, wherein these defendants were charged with conspiracy to defraud the United States in violation of Section 5440, R. S. U. S.; that affiant is one of the defendants who was tried in said cause in the Northern Division, District of Idaho, and against whom a verdict of "Guilty" was returned on the 17th day of June, A. D. 1907, and from which verdict an appeal was taken to the United States Circuit Court of Appeals, for the Ninth Circuit, which verdict was held by said court to be illegal [3610—240] and the judgment was reversed, and the cause remanded for a new trial; that subsequent thereto said cause was tried at Boise, in the Central Division, District of Idaho, consolidated with indictments Nos. 605 and 607, and in which trial, at the conclusion thereof, the jury returned a verdict of "Not Guilty"; that in the examination of the jurors within and for the Central Division, District of Idaho, two jurymen testified in answer to questions touching their qualifications to act as jurors, that they had read articles concerning affiant, with the other defendants, in the "Spokesman-Review," the paper referred to in the affidavits herein, and each of said two jurors testified that they had formed an opinion relative to the guilt

or innocence of the defendants, and were excused for cause, and the only two jurors who were excused for cause were jurors who had read articles concerning the defendants, including affiant, in the "Spokesman-Review"; that the said "Spokesman-Review" has a large and extensive circulation within and for the Northern Division, District of Idaho, and it would be impossible to obtain a fair and impartial jury in said District, and by reason thereof, affiant desires a change of venue to the Central Division, and that the cause be tried at Boise therein, where the same prejudice does not exist for the reason that the "Spokesman-Review" and the "Lewiston Evening Teller" have a very limited circulation, if any, in the Central Division, and by reason of the fact that the interest taken in the prosecution of affiant and defendant herein does not extend to the Central Division, District of Idaho.

Affiant respectfully refers to the affidavits on file in case No. 615, The United States of America v. William F. Kettenbach, George H. Kester and William Dwyer, the exhibits attached thereto, copies of which affidavits and which exhibits [3611—241] are attached to this defendant's application for a change of venue in the above entitled cause, and respectfully refers to the original affidavits and exhibits on file in case No. 615 for verification.

WHEREFORE, this defendant and affiant respectfully prays that the application for a change of venue be granted, and that the case be tried at Boise, within and for the Central Division, District of Idaho.

GEORGE H. KESTER.

Subscribed and sworn to before me this 5th day of April, 1910.

[Seal]

E. V. KLEIN,

Notary Public in and for the County of Spokane,
State of Washington.

Attached is affidavit filed as Plaintiff's Exhibit No. 107.

Endorsed: No. 606. United States of America, Plaintiff, vs. George H. Kester, Defendant. Application and Motion for Change of Venue. Filed Apr. 25, 1910. A. L. Richardson, Clerk.

Filed as Complainant's Exhibit No. 108. Nov. 7, 1910. A. L. Richardson, Clerk. [3612—242]

Complainant's Exhibit No. 109.

*In the District Court of the United States Within
and for the Northern Division, District of Idaho.*

No. 776.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARENCE W. ROBNETT, FRANK W. KET-
TENBACH and WILLIAM F. KETTEN-
BACH,

Defendants.

No. 778.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

CLARENCE W. ROBNETT, FRANK W. KET-
TENBACH and WILLIAM F. KETTEN-
BACH,
Defendants.

No. 781.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH and CLARENCE W.
ROBNETT,
Defendants.

No. 783.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH, CLARENCE W.
ROBNETT and WILLIAM F. KETTEN-
BACH,
Defendants.

No. 842.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH,
Defendant.

Motion for Change of Venue.

Now comes the defendant, Frank W. Kettenbach, and moves the above-entitled Court for a change of venue in this case from the Northern Division of the District of Idaho to the Central Division thereof, upon the grounds and for the [3613—243] following reasons:

1.

Because on account of local prejudice and hostile influence this defendant cannot have a fair and impartial trial at Moscow, in the said Northern Division of said District of Idaho, and such a trial can be had in the Central Division of said District.

In support of this motion, defendant will read the affidavits and copies of affidavits annexed hereto, and the files and records in the above-entitled causes and each of them, and the affidavits that have been or may hereafter be filed herein or in either thereof, by or on behalf of William F. Kettenbach and George H. Kester in support of an application for change of venue, and the affidavit filed in support of application for change of venue in Case No. 615, *The United States of America, Plaintiff, vs. William F. Kettenbach, George H. Kester and William Dwyer, Defendants*, and especially the affidavits in support of motion for new trial in said cause, and such further and additional affidavits and proofs as defendant may file herein and serve prior to the hearing of this motion.

JAMES E. BABB,

Postoffice Address, Lewiston National Bank Bldg.,
Lewiston, Idaho, Attorney for Frank W. Kettenbach, Defendant.

State of Idaho,
County of Nez Perce,—ss.

James E. Babb, being first duly sworn, upon oath deposes and says: That he is attorney for the defendant [3614—244] above named; that the foregoing application is made in good faith and not for the purpose of delay, and as affiant verily believes, is well founded in point of law.

JAMES E. BABB.

Subscribed and sworn to before me this 21st day of May, 1910.

[Seal] ALEX KASBURY,
Notary Public in and for Nez Perce County, Idaho.
[3615—245]

*In the District Court of the United States Within
and for the Northern Division, District of Idaho.*

No. 776.

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.

CLARENCE W. ROBNETT, FRANK W. KET-
TENBACH and WILLIAM F. KETTEN-
BACH,
Defendants.

No. 778.

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.

CLARENCE W. ROBNETT, FRANK W. KET-
TENBACH and WILLIAM F. KETTEN-
BACH,
Defendants.

No. 781.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH and CLARENCE W.
ROBNETT,
Defendants.

No. 783.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH, CLARENCE W.
ROBNETT and WILLIAM F. KETTEN-
BACH,
Defendants.

No. 842.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

FRANK W. KETTENBACH,
Defendant.

[3616—246]

**Affidavit in Support of Application for Change of
Venue.**

State of Idaho,
County of Nez Perce,—ss.

FRANK W. KETTENBACH, being first duly sworn, on oath deposes and says: That he is one of the defendants named in each of the above-entitled

causes; that he hereby makes part hereof and annexes hereto a copy of the affidavit of George H. Kester in United States of America, Plaintiff, vs. George H. Kester, No. 606, in the above entitled Court, and of the affidavits of William F. Kettenbach, George H. Kester and William Dwyer in United States of America, Plaintiff, vs. William F. Kettenbach, George H. Kester and William Dwyer, No. 615, in the above-entitled Court, and of the affidavits of J. George Vinegarholz, George W. Tannahill and George E. Erb, in said last mentioned cause; that said affidavits made part hereof are affidavits, the originals of which were filed in said causes respectively; and affiant makes part hereof also the joint affidavits of William F. Kettenbach and George H. Kester which have been or will be verified and filed in United States of America vs. Clarence W. Robnett, William F. Kettenbach and George H. Kester, No. 777 in the above-entitled Court, copy of which affidavit is annexed hereto; that affiant has read the foregoing affidavits made part hereof and is familiar with and knows very much the larger portion of the facts therein set forth, and that such facts are truly set forth therein, and affiant believes that all the other averments in said affidavits of which he has not personal knowledge are true as therein set forth.

Affiant further makes part hereof extracts and copies from a number of newspaper publications which issued and [3617—247] circulated in the said Northern Division of the said District of Idaho, the date and name of the paper being designated at

the head of the most of said extracts and copies; that the said extracts and copies from newspapers are bound together and designated as "Exhibit A"; that all of said extracts which are designated at the beginning as "Review" or "Spokesman Review," are copied from the Spokesman Review, a daily newspaper published at Spokane in the State of Washington, which until recently was the only morning daily newspaper published in said City of Spokane, and the same for many years has constituted almost exclusively the source of daily news for the people residing in the Northern Division of said District of Idaho; that the paper designated as "Oregonian" is a daily paper published at Portland, in the State of Oregon, which also has a very considerable circulation in the said Northern Division of the said District of Idaho; that the dates of said newspaper publications beginning with the last one of same, are as follows; July 13th, 1909; June 4th, 1909; July 15, 1909; August 14, 1909; October 20, 1909; November 2, 1909; November 19, 1909; November 18, 1909; November 22d, 1909; February 17, 1910; February 18, 1910; the next⁷ not dated was about February, 1910; the next, February 26, 1910; the next was also on or about the same date; and May 3, 1910; that the said publication of November 18th, 1909, headed "LAND FRAUD TRIO FACES COURT," contained three pictures as designated in the copy of said publication annexed hereto, one of said pictures being the picture of affiant; that there is also annexed hereto copy from the publication of said Spokesman Review of date November 24, 1909;

that there is also annexed hereto an extract from the opinion of the Supreme Court of Idaho, reported in 15 Idaho, 572, and 99 Pacific, 111, in the case of Gaylord W. Thompson, Plaintiff and Respondent, vs. Walter J. Burns, et al., Defendants and Appellants, and F. W. Kettenbach, Defendant and Respondent; [3618—248] that the said Gaylord W. Thompson is the Gaylord W. Thompson mentioned in the foregoing affidavits; that the said extract from the opinion of the Supreme Court of Idaho gives a fair characterization of the said Gaylord W. Thompson, and shows him in an attitude and course of conduct which affiant believes to be fairly representative of him in his general political and business transactions and relations; that in his Complaint in the action in which said opinion was rendered, he alleged that a transfer of real property made by said Walter J. Burns was fraudulent and made pursuant to a fraudulent conspiracy to deprive him of the rights which he alleged to have in the property, and he further alleged in the said Complaint that a mortgage on said property, given by grantee of the said Burns for part of the purchase money and transferred to affiant, was fraudulent and that the same and the transfer thereof was without consideration, all of which allegations were found by the Supreme Court to be utterly without foundation, and the Complaint of the said plaintiff was ordered by the said Court to be dismissed, with costs; that the said Gaylord W. Thompson is an expert politician and promoter, and is skilled in the manipulation of public opinion, and arose for a time to a high position in

the Republican machine organization of the State of Idaho and has been prominent as a lobbyist at the sessions of the Legislatures of the State of Idaho; that said Gaylord W. Thompson has at all times been an enemy of affiant, and has been in a position and has been diligent in obstructing matters and measures, in which affiant has been interested, and in fomenting opinion adverse to affiant; that the allegations made by said Gaylord W. Thompson in the said case reported [3619—249] in the Supreme Court of Idaho, falsely charging affiant with being party to a transfer and to a deed made in fraud of said Gaylord W. Thompson, were widely published in the newspapers during the progress of said litigation; that the said allegations were false, and were known to be false by the said Gaylord W. Thompson.

That affiant came in 1879 to Lewiston, in the then Territory of Idaho, and has resided there thence hitherto. Several years after affiant arrived there, he engaged in various employments such as he could secure from time to time, and finally became a book-keeper in the Lewiston National Bank at a time when his older brother, William F. Kettenbach, Senior, was President thereof; that said William F. Kettenbach, Senior, died in September or October, 1891, and affiant became his administrator, and affiant progressed in said Lewiston National Bank through the positions of Assistant Cashier and Cashier up to the Presidency thereof; that on or about the final settlement of the Estate of William F. Kettenbach, Senior, affiant withdrew from said

Lewiston National Bank, selling out the stock which he held therein and resigning from the position which he had held therein; that at that time George H. Kester was Cashier of said Bank, and soon thereafter William F. Kettenbach, Jr., became President thereof; that affiant on withdrawing from said Bank, began acquiring and increasing his interests in the Lewiston Water & Light Company, until he acquired a large interest therein, which he disposed of about the year 1900, and affiant also, after leaving said Bank, engaged in the grain business and the buying and selling of grain in Nez Perce and Idaho counties, State of Idaho; that the said business, on account of the opening and [3620—250] settlement of the Nez Perce Indian Reservation and the speedy settlement of the country around about the same, speedily grew into a large business, which was finally incorporated as Kettenbach Co., Limited; that William F. Kettenbach was a stockholder in said Kettenbach Co., Ltd., but did not participate in the management or transaction of the business thereof; that said business was sold by said Kettenbach Co., Ltd., to Kerr-Gifford Company about the year 1908; that in the year 1902, affiant organized Idaho Trust Company, and became President thereof, it having an authorized capital of \$250,000 and started out with a paid capital of \$60,000, but constantly increased the amount of its paid capital until the same amounted to \$200,000 on or about the first of July, 1907; that William F. Kettenbach, Jr., was a stockholder in said Idaho Trust Company but was not one of the executive officers thereof; that the same increased

in its business until it became practically the equal in deposits, stock, and otherwise, of the Lewiston National Bank; that affiant was never interested in nor participated in to any extent or at all, the timber land dealings or timber dealings of William F. Kettenbach and George H. Kester and William Dwyer, or in the timber land dealings of Clarence W. Robnett; that during the period of said transactions, affiant's time and means were taken up entirely with the Idaho Trust Company and the Kettenbach Co., Ltd., and the other banking interests which affiant then held; that affiant organized the Bank of Camas Prairie at Grangeville, Idaho, in 1892, and has been President thereof continuously from that time to this date; that affiant was a stockholder and officer in a number of other banks in the vicinity, such as at Stites, Nez Perce, Orofino, Ilo and Cottonwood, Idaho, and Asotin, in the State of Washington, and affiant is a stockholder and Director in the Spokane & Eastern Trust Company of Spokane, in the State [3621—251] of Washington; that said Kettenbach Co., Ltd., at and prior to the time it sold its business, maintained fifteen warehouses at various points in Idaho and Nez Perce counties, Idaho, and bought and sold about one and one-half million bushels of grain annually; that after the indictment of George H. Kester and William F. Kettenbach, Cashier and President, respectively, of Lewiston National Bank, a consolidation was arranged between Lewiston National Bank and Idaho Trust Company's stockholders, whereby Idaho Trust Company acquired 91 per cent of the capital stock of

Lewiston National Bank; that of said 91 per cent of stock of said Lewiston National Bank, affiant owned about 20 per cent through his ownership of stock of Idaho Trust Company, and in addition thereto affiant acquired ten shares of the stock of said Lewiston National Bank and he became President thereof in the month of July, 1907, and soon thereafter Edward C. Smith, Secretary of Idaho Trust Company, was elected Cashier of Lewiston National Bank; that at the time of said consolidation, a committee of the shareholders of the Idaho Trust Company, including the affiant, examined carefully the affairs of Lewiston National Bank; that at the time of said consolidation there was a shortage in the funds of said Lewiston National Bank on account of a defalcation, amounting to about \$12,000; that said shortage grew out of manipulations of the said Clarence W. Robnett; that the same was not discovered by affiant and his associates at the time they examined the affairs of said Bank for the purpose of said consolidation; that said Clarence W. Robnett, after affiant became President of Lewiston National Bank, continued from time to time abstracting funds from said Bank and secreting the information of said abstractions by false entries made by him in the books of said Bank; that abstractions of the funds of said Bank continued from time to time until the same amounted to the sum of about \$137,000, when the said abstractions were discovered by affiant to have been covered up by false entries of the said Clarence W. Robnett; that at [3622—252] the time of the discovery of same, said Clarence W.

Robnett was in the East, undertaking to promote an irrigation scheme and affiant went East to meet the said Clarence W. Robnett and arrange for recovery of as much as possible of the said losses, and prepared and equipped to cause the arrest of said Robnett and his return by officers of the United States to the State of Idaho for trial, in case it should appear necessary to cause such arrest in order to eventually secure his apprehension and trial; that affiant was successful in recovering a small amount of said funds for said Bank from the said Robnett, and affiant therefore, on return to Lewiston, Idaho, swore out a complaint for the arrest of said Robnett, and of John E. Chapman, the latter the Teller of said Lewiston National Bank at the time affiant became President thereof and at wish of affiant appointed and continued as Assistant Cashier during the time of such defalcations; that said Robnett and said Chapman were bound over by the United States Commissioner to answer before the Grand Jury of the United States Court; that affiant and the other stockholders of Idaho Trust Company and Lewiston National Bank paid up to said Bank the amount of said defalcation, and affiant became much interested in having the parties guilty of the defalcation discovered and prosecuted; that affiant was very seriously hampered in his efforts to secure prosecution by reason of the prejudice that had grown up against William F. Kettenbach, Jr., and George H. Kester, and incidentally against said Bank, on account of the indictments that were pending against said Kester and William F. Kettenbach and said

Clarence W. Robnett on account of land frauds; that the prejudice of the United States officials against the said indicted parties seemed to extend to the said National Bank and to all the stockholders thereof, so that it became impossible to secure co-operation of said officials in the interest of the prosecution of those guilty of abstracting funds of said Bank; that affiant [3623—253] in referring to Government officials, refers to those who were placed in charge of the matter of said Bank defalcations, viz., Peyton W. Gordon, and the various assistants and special agents placed under his direction; that U. S. Attorney C. H. Lingenfelter, who was in charge of the matter for a time before said Gordon took charge, though a resident of Lewiston, had not entertained or been affected by any such bias or prejudice; that when the said Peyton W. Gordon and his various assistants and special agents came to Lewiston for the purpose of taking up the investigation of the Bank defalcation, they fell into the company of said Clarence W. Robnett and Miles S. Johnson, the latter of whom, affiant has been informed and believes, had made the statement while Deputy U. S. Attorney, that the only way to prosecute the said land frauds was first to break the Lewiston National Bank; that said Miles S. Johnson has been a very bitter enemy of affiant, for some reason, ever since the said Johnson took up his residence in Lewiston, Idaho; that the said Johnson belonged to the faction known as the Thompson-Johnson faction of the Republican Party, and has been an associate at all times of the said Gaylord W. Thomp-

son in the manipulation of public opinion and in lobbying at the sessions of the Legislatures of the State of Idaho; that said Miles S. Johnson was deputy U. S. Attorney for Idaho at the time the indictments against Kester, Robnett and William F. Kettenbach for land frauds were returned as aforesaid, and during the time of the first trials under said indictments at which some of the defendants were convicted, which convictions were afterwards reversed by the Court of Appeals; that the said Miles S. Johnson, after the defalcation of said Robnett in the Lewiston National Bank, became and is still the attorney for said Robnett in such defalcation matters; [3624—254] that the said Miles S. Johnson, notwithstanding the fact that he has been representing the said Robnett, has also been in the employ of the Government at the same time in the prosecution of said land fraud indictments; that the said Robnett recently testified on the trial of the land fraud indictments against said Kester and W. F. Kettenbach in favor of the Government; that in such testimony he admitted that he was testifying directly contrary to what he had previously testified on the former trial in the same Court; that at the close of the trial of the last cases in which said Robnett testified as aforesaid, the Jury immediately returned a verdict acquitting the defendants; that all the bias and prejudice which has existed and exists in the said Northern Division of the District of Idaho against the said Kester and William F. Kettenbach and William Dwyer exists against this affiant and defendant, because of the skillful and

malicious misrepresentation and publication concerning the land fraud cases in such a manner as to lead the public to believe that this affiant and defendant was connected therewith; that near the time when the first land fraud indictments against William F. Kettenbach and George H. Kester were made public, it was published in the Spokesman Review and in Associated Press dispatches generally, (copy not annexed hereto), that F. W. Kettenbach, a Lewiston Bank President, was among those indicted; that similar publication went out broadcast over the United States, and immediately at that time caused affiant and Idaho Trust Company pecuniary loss by reason of the widespread belief created that affiant, the President of said Trust Company, had been indicted; that said reports sent out by the Associated Press were repeated and duplicated in many forms in other and smaller and more local newspapers [3625—255] and were taken up as a subject of conversation and passed from person to person throughout this section of the country, and similar misstatements were made from time to time whenever any proceedings were being taken in the land fraud cases, down to and including the publication in the Review last Fall, just prior to the meeting of the Grand Jury on November 18th, at which affiant was indicted, which publication was headed, "LAND FRAUD TRIO FACES COURT," and in which publication the picture of affiant was given and affiant's name, Frank W. Kettenbach, as being one of the trio indicted for land frauds; that the correspondent of said Spokesman Review maintained then and for

a long time at Lewiston, Idaho, was a party to said Thompson and Johnson faction, and was an organ of theirs in the news items that he sent out bearing upon said land fraud cases and the Lewiston National Bank defalcation cases; that affiant always assisted said William F. Kettenbach and George H. Kester in any political controversies in which they were engaged, and in that way affiant at all times inherited whatever prejudice was created against said William F. Kettenbach and George H. Kester of a political nature;

That while the Grand Jury by which affiant was indicted was in session, a case was being tried at Lewiston, Idaho, in the District Court, to which affiant was a party, in which very flagrant and absolutely false allegations of fraudulent conduct on the part of affiant were made, and made by parties and an attorney who were in sympathy with the Thompson-Johnson faction, which allegations were wholly unsupported by the evidence and were found to be untrue by the District Court in the decision rendered in the case shortly afterwards; that while that case was being tried, a news item dated October 20, was sent to and published in the Spokesman Review, headed, "Estate Cash Paid F. W. Kettenbach. Sum of \$17,000. is Traced. [3626—256] Former Teller of Lewiston National Bank Gives Interesting Testimony in Sensational Suit." Affiant states that the only thing of a sensational nature concerning said suit was the shocking falsity of the allegations of the complaint; that there was no evidence in the case at all concerning any sum of \$17,000. being received by

affiant, and the said publication was wholly fictitious and maliciously false, and made for the purpose of influencing the Grand Jury then in session or within a few days to be in session, and by which affiant was subsequently indicted. Affiant attaches hereto a portion of the Findings of the District Court in the case last mentioned, wherein it is found that none of the money in question was received by affiant. A very prejudicial class of publications was made against affiant immediately after the return of the indictments against him, wherein it was stated that the Special Assistant U. S. Attorney had pursued an unusual course before the Grand Jury in that he had afforded affiant three different opportunities to clear himself before the Grand Jury of the charges upon which he was indicted, and that notwithstanding such leniency and favor shown affiant, affiant had been unable to clear himself of the charges. These publications were made for the purpose of prejudicing affiant in the minds of the public, and they were false. Affiant went before the Grand Jury to produce evidence in support of the complaints affiant had sworn to against Robnett and Chapman, under which they had been bound over to the Grand Jury; Special Assistant U. S. Attorney having failed to co-operate with affiant in the matter of proving the said charges, affiant sought permission to go before the Grand Jury to produce evidence in support of the same; that affiant was not informed by any Grand Jurymen or by the Special U. S. Attorney, or any other attorney before the Grand Jury, that there was any designated charge pending [3627—257] against

him. Affiant was advised by the said attorney that it was affiant's privilege to refuse to testify before the Grand Jury if affiant so desired to do, on the ground that he might thereby be incriminated, but at no time was any designated charge made against affiant or any request made of affiant to explain any charge against him; that during the session of the Grand Jury, affiant received no co-operation from said Special U. S. Attorney or any of his assistants, but, on the contrary, the said attorney and the said assistants were at all times in company and working with the said Robnett and Chapman; that the said attorney and assistants never brought to affiant any information or evidence received from or through said Robnett or Chapman, but, on the contrary, were taking the documentary evidence which affiant produced before the Grand Jury and furnishing the same to said Robnett and Chapman and working on the same with them. Affiant further states that the position occupied by said Special U. S. Attorney, who was in charge on the one hand of the land fraud prosecutions and the civil cases wherein the United States was seeking to recover back land acquired by said William F. Kettenbach and George H. Kester and others, depending in those cases upon the testimony of Robnett to win the same, and therefore being under the obligation of maintaining before this Court the credibility of Robnett, is entirely inconsistent with his position in the Bank defalcation cases, wherein Robnett is under indictment and should be prosecuted by the U. S. Attorney in such a way as to destroy the effectiveness of said Robnett as a wit-

ness for the U. S. Attorney in his other cases. In such a situation, it was unavoidable that the U. S. Attorney would become a partisan in support of one of these conflicting duties, and he having become a partisan of Robnett, all the influence and authority of his office has necessarily operated [3628—258] to the prejudice of affiant and to the protection, excuse, palliation, and the creation of charitable and kindly feelings for said Robnett, as shown in the Spokesman Review publication annexed hereto of November 24, 1909, the said publication having been made at the instance of the local correspondent at Lewiston, who was the constant companion and partisan of the said Johnson and Thompson and the Government's special agents at Lewiston in charge of these cases, and who was not on speaking terms with affiant and some of affiant's friends; that said Gordon and his special agent at Lewiston avoided affiant and his friends and business and professional associates and were seen all the while on the street and elsewhere in company with said Robnett and Johnson.

That U. S. Attorney Lingenfelter and Bank Examiner Gatch before said Gordon took charge had at all times conferred and co-operated freely with affiant and his attorney and friends in the prosecution of said Robnett and Chapman; that notwithstanding the course of said Gordon and associates as outlined, affiant continued to offer him access to the books and files of said Bank and they were even given access to the private safety deposit boxes of affiant, W. F. Kettenbach, and others; that the

enmity of said Gordon to affiant became so violent as to extend to persons who would furnish testimony against said Robnett or Chapman or in favor of affiant, one of which witnesses of high standing the said Gordon attempted unsuccessfully to have indicted; that when said Gordon was offered an inspection of the contents of safety deposit boxes in said Bank, said Gordon, as affiant is informed and believes, assigned as an objection to the presence of the owner of a box during the examination that the owners might make way with some documents, although said Gordon permitted the books and documents of the Bank produced for the Grand Jury pursuant to a [3629—259] subpoena, to be examined by Robnett who, the said Gordon was aware, had made many false entries in the books of said Bank.

Affiant further states that since the verdict of acquittal of William F. Kettenbach, George H. Kester, and William Dwyer in the said land fraud cases in February last, the newspaper publications as shown in those annexed hereto, have tended further to connect affiant with said land fraud cases, in that it was usually stated therein that the parties acquitted in the land fraud cases had recently been President and Cashier respectively of the Lewiston National Bank, in which a large shortage had recently occurred and for which they were under indictment. Such publications would, in the minds of a large number of the people, connect affiant with said land fraud prosecutions, because many people knew that it was affiant who had recently been Presi-

dent of the Lewiston National Bank, in which the large defalcation had occurred. Affiant states that by reason of the acts, doings, and publications aforesaid, the people in the said Northern Division of the District of Idaho have been so misled and misinformed that there exists in their minds a prejudice against affiant to such an extent that it is impossible to secure therein a jury before which affiant can have a fair or proper trial; that the Central Division of the said District of Idaho is so far removed in a business, social and other way from the said Northern Division that such prejudice does not there exist, and affiant believes that he can there have the trial before a Jury which can hear the evidence and pass upon it upon its merits.

Affiant denies each and every of the charges of criminality made against him in the foregoing indictments, and avers that they have been returned upon the testimony of the [3630—260] said Robnett, who has robbed affiant and his associates in business of amounts which the affiant and said associates have made good.

Affiant further states that he considers that it would be an injustice to him to be tried jointly with said Clarence W. Robnett in view of the criminality of the said Robnett as shown in a statement signed by him, a copy of which is annexed hereto, and the losses which the said criminality caused affiant and affiant's friends to have the said Robnett prosecuted therefor, and affiant respectfully submits that he should have a trial separate from the said Robnett.

Affiant further submits that in view of the ex-

tensive and unjust publications of his name in connection with the many land fraud indictments and prosecutions against William F. Kettenbach and George H. Kester and others, that it would be an injustice to him to be tried jointly with them, and he respectfully submits that he should have a trial separate and alone. Affiant has retained at all times and still possesses the confidence and goodwill of all the stockholders and directors who held offices and interests in the Lewiston National Bank at the time of said defalcations, as appeared from a signed statement of directors of said Bank, copy of which is annexed hereto.

Affiant further states that the statements in some of said newspaper publications to the effect that affiant had taken over or acquired the timber lands which had been acquired by Kester, William F. Kettenbach, and William Dwyer are wholly untrue. Affiant has not acquired title, or contracted for acquiring title, at any time to any of said lands.

Affiant further states that he believes that all of [3631—261] the affidavits which have been annexed hereto and referred to herein were true when they were made, and that the facts and conditions therein set forth and narrated are still true.

FRANK W. KETTENBACH.

Subscribed and sworn to before me this 21st day of May, 1910.

[Seal]

C. S. BOREN,

Notary Public in and for Nez Perce County, Idaho.

Endorsed: Filed Nov. 7, 1910. A. L. Richardson, Clerk U. S. Circuit Court. [3632—262]

**Plaintiff's Exhibits Nos. 110 and 110-a to 110-p,
Inclusive, Relate to the Application and Entry
of Lon E. Bishop.**

Plaintiff's Exhibit No. 110: Lon E. Bishop. Occupation, lumberman.

Sworn statement dated and filed March 24, 1903, for the entry of the West half of the Southeast quarter and the South half of the Southwest quarter, Section 23 in Township 39, North of Range 3 East, Boise Meridian.

Plaintiff's Exhibit No. 110-a: Duplicate of sworn statement.

Plaintiff's Exhibit No. 110-b: Nonmineral affidavit.

Plaintiff's Exhibit No. 110-c: Notice for publication, dated March 24, 1903. Persons named therein as witnesses: James C. Evans, Joseph B. Clute, Charles Smith and Fred Emery.

Plaintiff's Exhibit No. 110-d: Proof of publication.

Plaintiff's Exhibit No. 110-e: Testimony of Lon E. Bishop given at final proof, June 17, 1903.

Answer to question No. 12 thereof: \$1,000.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 110-f: Testimony of Lon E. Bishop given on cross-examination at final proof.

Answer to question No. 5 thereof: Laborer—Small and Emery. Lewiston, Idaho. \$2.50 per day.

Answer to question No. 6 thereof: I have known the land for the past year.

Answer to question No. 7 thereof: No.

Answer to question No. 8 thereof: Yes. March 20 and [3633—263] June 7, 1903. Walked over it with my witness.

Answer to question No. 11 thereof: No. Took the estimate of James C. Evans.

Answer to question No. 12 thereof: I expect to hold it.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I had earned all but \$150, which I borrowed.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 110-g: Affidavit of Lon E. Bishop dated June 17, 1903, that he was unable to offer proof on the date advertised for the reason that he had not sufficient amount of money on that date with which to pay for the land, and also because one of his witnesses could not be found.

Plaintiff's Exhibit No. 110-h: Testimony of witness James C. Evans given at final proof, June 17, 1903.

Plaintiff's Exhibit No. 110-i: Cross-examination of witness James C. Evans given at final proof.

Plaintiff's Exhibit No. 110-j: Testimony of witness Joseph B. Clute given at final proof.

Plaintiff's Exhibit No. 110-k: Cross-examination of witness Joseph B. Clute at final proof.

Answer to question No. 5 thereof: Small and Emery and for myself.

Answer to question No. 8 thereof: Yes.

Plaintiff's Exhibit No. 110-l: Receiver's Receipt No. 4392, dated June 17, 1903.

Plaintiff's Exhibit No. 110-m: Final certificate No. 4392, dated June 17, 1903.

Plaintiff's Exhibit No. 110-n: Certified copy of [3634—264] patent dated August 3, 1904, granting to Lon E. Bishop the land described in Plaintiff's Exhibit No. 110.

Plaintiff's Exhibit No. 110-o: Certified copy of warranty *a* deed made and executed by Lon E. Bishop, June 17, 1903, granting to William F. Kettenbach and George H. Kester in fee simple, the land described in Plaintiff's Exhibit No. 110. Consideration mentioned therein, \$1,000.00. Recorded at the request of George H. Kester in the office of the Recorder of Shoshone County, Idaho, August 10, 1903.

Plaintiff's Exhibit No. 110-p: Certified copy of Receiver's receipt No. 4392, issued to Lon E. Bishop, June 17, 1903, for the amount paid for the land described in Plaintiff's Exhibit No. 110. Recorded at the request of George H. Kester, August 10, 1903, in the office of the Recorder of Shoshone County, Idaho.

Plaintiff's Exhibits Nos. 111 and 111-a to 111-o, Inclusive, Relate to the Application and Entry of Charles Smith.

Plaintiff's Exhibit No. 111: Charles Smith. Occupation, lumberman.

Sworn statement dated and filed April 2, 1903, for the entry of the Northwest quarter of the Southwest quarter of Section 14 and the Southeast quarter of the Northeast quarter and the North half of the Southeast quarter, Section 15, Township 39, North

of Range 3 East, Boise Meridian.

Plaintiff's Exhibit No. 111-a: Duplicate of sworn statement. [3635—265]

Plaintiff's Exhibit No. 111-b: Non-mineral affidavit.

Plaintiff's Exhibit No. 111-c: Notice for publication, dated April 2, 1903. Persons named therein as witnesses: Fred Emery, Charles Dent, James C. Evans and Benjamin Clute.

Plaintiff's Exhibit No. 111-d: Proof of publication.

Plaintiff's Exhibit No. 111-e: Testimony of Charles Smith given at final proof, June 23, 1903. Answer to question No. 12 thereof: \$2,000.00 or \$2,500.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 111-f: Testimony of Charles Smith given on cross-examination at final proof, June 23, 1903.

Answer to question No. 5 thereof: Logging on Clearwater River for Small and Emery Mill Company. \$3.00 per day.

Answer to question No. 6 thereof: I located myself.

Answer to question No. 7 thereof: No.

Answer to question No. 10 thereof: 2,000,000 feet. \$2,000.00 to \$2,500.00.

Answer to question No. 11 thereof: Yes.

Answer to question No. 12 thereof: I expect to sell it or get the benefit in some way so I can get the most.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I earned the most and borrowed \$200 to complete it.

Answer to question No. 18 thereof: No.

Plaintiff's Exhibit No. 111-g: Testimony of witness Fred Emery given at final proof, June 23, 1903.
[3636—266]

Plaintiff's Exhibit No. 111-h: Testimony of witness Fred Emery given on cross-examination at final proof, June 23, 1903.

Answer to question No. 8 thereof: Yes.

Plaintiff's Exhibit No. 111-i: Testimony of witness Charles Dent given at final proof, June 23, 1903.

Plaintiff's Exhibit No. 111-j: Testimony of Charles Dent given on cross-examination at final proof.

Plaintiff's Exhibit No. 111-k: Receiver's receipt No. 4405, dated June 23, 1903.

Plaintiff's Exhibit No. 111-l: Final certificate No. 4405, dated June 23, 1903.

Plaintiff's Exhibit No. 111-m: Certified copy of patent, dated August 3, 1904, and granting to Charles Smith the land described in Plaintiff's Exhibit No. 111.

Plaintiff's Exhibit No. 111-n: Certified copy of warranty deed made and executed June 23, 1903, by Charles Smith granting to William F. Kettenbach and George H. Kester, in fee simple, the land described in Plaintiff's Exhibit No. 111. Consideration mentioned therein \$1,000.000. Recorded at the

request of George H. Kester, August 10, 1903, in the office of the Recorder of Shoshone County, Idaho.

Plaintiff's Exhibit No. 111-o: Certified copy of receiver's receipt No. 4405, issued to Charles Smith June 23, 1903, for the sum paid for the land described in Plaintiff's Exhibit No. 111. Recorded at the request of George H. Kester, August 10, 1903, in the office of the Recorder of Shoshone County, Idaho. [3637—267]

**Plaintiff's Exhibits Nos. 112 and 112-a to 112-m,
Inclusive, Relate to the Application and Entry
of John W. Killinger.**

Plaintiff's Exhibit No. 112: John W. Killinger. Occupation, assayer.

Sworn statement dated and filed February 24, 1903, for the North half of the Southwest quarter and the North half of the Southeast quarter, Section 13, Township 39, North of Range 2 East, Boise Meridian.

Plaintiff's Exhibit No. 112-a: Duplicate of sworn statement.

Plaintiff's Exhibit No. 112-b: Non-mineral affidavit.

Plaintiff's Exhibit No. 112-c: Testimony of witness William B. Benton given at final proof, May 22, 1903.

Plaintiff's Exhibit No. 112-d: Testimony of witness William B. Benton given on cross-examination at final proof, May 22, 1903.

Answer to question No. 8 thereof: Yes. Yes.

Plaintiff's Exhibit No. 112-e: Testimony of wit-

ness Edward L. Knight given at final proof, May 22, 1903.

Plaintiff's Exhibit No. 112-f: Testimony of witness Edward L. Knight given on cross-examination at final proof.

Answer to question No. 8 thereof: Yes. Yes.

Plaintiff's Exhibit No. 112-g: Testimony of John W. Killinger given at final proof, May 22, 1903.

Answer to question No. 12 thereof: \$1,500.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No. [3638—
268]

Plaintiff's Exhibit No. 112-h: Testimony of John W. Killinger given on cross-examination at final proof, May 22, 1903.

Answer to question No. 6 thereof: W. B. Benton located me on this land.

Answer to question No. 7 thereof: Yes, W. B. Benton, \$100.00.

Answer to question No. 8 thereof: Yes. February 20 and April 15, 1903.

Answer to question No. 10 thereof: 1,800,000 feet. \$1,500.00.

Answer to question No. 12 thereof: Hold it as an investment.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No.

Answer to question No. 15 thereof: Lewiston, Idaho.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I earned it in my business. One year.

Answer to question No. 18 thereof: Yes, First National Bank, Lewiston.

Plaintiff's Exhibit No. 112-i: Notice for publication.

Plaintiff's Exhibit No. 112-j: Receiver's receipt No. 4357, dated May 22, 1903.

Plaintiff's Exhibit No. 112-k: Final certificate No. 4357, dated May 22, 1903.

Plaintiff's Exhibit No. 112-l: Proof of publication.

Plaintiff's Exhibit No. 112-m: Certified copy of patent dated August 3, 1904, granting to John W. Killinger the land described in Plaintiff's Exhibit No. 112. [3639—269]

Plaintiff's Exhibits Nos. 113 and 113-a to 113-n, Inclusive, Relate to the Application and Entry of George W. Harrington.

Plaintiff's Exhibit No. 113: George W. Harrington. Occupation, farmer.

Sworn statement dated and filed November 21, 1902, for the entry of the West half of the Northwest quarter and the Northeast quarter of the Northwest quarter and the Northwest quarter of the Northeast quarter of Section 10, Township 36, North of Range 5 East, Boise Meridian.

Plaintiff's Exhibit No. 113-a: Duplicate of sworn statement.

Plaintiff's Exhibit No. 113-b: Non-mineral affidavit.

Plaintiff's Exhibit No. 113-c: Proof of publication.

Plaintiff's Exhibit No. 113-d: Notice for publication.

Plaintiff's Exhibit No. 113-e: Receiver's receipt No. 4213 dated February 11, 1903.

Plaintiff's Exhibit No. 113-f: Final certificate No. 4213 dated February 11, 1903.

Plaintiff's Exhibit No. 113-g: Testimony of George W. Harrington given on cross-examination at final proof, February 11, 1903.

Answer to question No. 10 thereof: 2,000,000 feet.
\$1,600.00.

Answer to question No. 11 thereof: Yes.

Answer to question No. 12 thereof: Keep the land and cut the timber.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: No. [3640—
270]

Answer to question No. 15 thereof: Lewiston, Idaho.

Answer to question No. 16 thereof: Yes. Yes.

Answer to question No. 17 thereof: I earned it working in mill and logging. Six months.

Answer to question No. 18 thereof: Yes. Lewiston National Bank, Lewiston, Idaho.

Plaintiff's Exhibit No. 113-h: Testimony of witness Fred Boyes given at final proof.

Plaintiff's Exhibit No. 113-i: Testimony of witness Fred Boyes given on cross-examination at final proof.

Answer to question No. 8 thereof: Yes. Yes.

Plaintiff's Exhibit No. 113-j: Testimony of witness Clarence W. Robnett given at final proof.

Answer to question No. 10 thereof: Not that I know of.

Answer to question No. 11 thereof: No.

Plaintiff's Exhibit No. 113-k: Affidavit of Fred Boyes that he is the same person mentioned in the advertisement as Boyce.

Plaintiff's Exhibit No. 113-l: Cross-examination of witness Clarence W. Robnett at final proof.

Answer to question No. 8 thereof: Yes. Yes.

Plaintiff's Exhibit No. 113-m: Testimony of George W. Harrington at final proof, February 11, 1903.

Answer to question No. 12 thereof: \$1,600.00.

Answer to question No. 13 thereof: No.

Answer to question No. 14 thereof: Yes.

Answer to question No. 15 thereof: No.

Plaintiff's Exhibit No. 113-n: Certified copy of patent dated July 2, 1904, granting to George W. Harrington, the land described in Plaintiff's Exhibit No. 113. [3641—271]

Plaintiff's Exhibit No. 114.

4-062.

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and cannot be made on information and belief.

The Non-Mineral Affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

DEPARTMENT OF THE INTERIOR.

United States Land Office.

Lewiston, Idaho, April 21, 1904.

J. B. Lafferty, being duly sworn according to law, deposes and says that he is the identical person who has been appointed by the State Board of Land Commissioners of Idaho to apply for Government title to the

Township 40 North, Range 5 East.

	Sec.
All of Section	1
“ “ “	2
“ “ “	3
“ “ “	4
S. $\frac{1}{2}$ of Section	8
S. $\frac{1}{2}$	9
E. $\frac{1}{2}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec.	11
All of	12
All of	13
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$	17
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$,	18
NE. $\frac{1}{4}$ N. $\frac{1}{2}$ SE. $\frac{1}{4}$,	19
N. $\frac{1}{2}$, W. $\frac{1}{2}$, SW. $\frac{1}{4}$, sec.	20
N. $\frac{1}{2}$, SW. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$,	21
N. $\frac{1}{2}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$,	22
N. $\frac{1}{2}$, SE. $\frac{1}{4}$,	23
All of	24
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$,	25
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$,	26

SW. $\frac{1}{4}$ NW. $\frac{1}{4}$,	27
[3642—272]	
NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$	28
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$,	29
Township 40 North, Range 6 East.	
All of	11
S. $\frac{1}{2}$	12
All of	19
S. $\frac{1}{2}$	20
N. $\frac{1}{2}$, SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	23
E. $\frac{1}{2}$,	24
NE. $\frac{1}{4}$ E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	28

That he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudu-

lently obtaining title to the mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is Boise, Idaho.

J. B. LAFFERTY. [3643—273]

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by, and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in, within the Lewiston, Idaho land district, on this 21 day of April, 1904.

J. B. WEST,
Register.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED
STATES,

Title LXX.—CRIMES.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and con-

Office of State Board of Land Commissioners of the
State of Idaho.

To the Register and Receiver U. S. Land Office,
Lewiston, Idaho:

I, Norman Jackson, Selecting Agent of the State Board of Land Commissioners of the State of Idaho, acting for and by authority of the State Board of Land Commissioners for the State of Idaho, do hereby certify that on the 21 day of April, 1904, I did select from the surveyed, unappropriated, unreserved and non-mineral public lands, within the district of lands subject to sale at Lewiston, Idaho, the several tracts described in this list, as part of the grant to the State of Idaho under the provisions of the Section of the Act of Congress approved July 3, 1890, for State University purposes. Amount of original grant, 50,000 acres; amount heretofore selected, 37,493.57 acres. Amount of this selection, 11,973.60 acres; still to be selected, 532.83 acres.

Now, therefore, I hereby offer for filing said list, together with my affidavit of the non-mineral character [3646—276] of the lands described in said list. The filing fee, amounting to \$150, accompanies the said list.

Given under my hand this 21 day of April, 1904.

NORMAN JACKSON,

Selecting Agent of the State Board of Land Commissioners of the State of Idaho.

United States Land Office,
Lewiston, Idaho, April 21, 1904.

We hereby certify that we have carefully exam-

ined the foregoing list of lands selected by the State of Idaho, under the provisions of the Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State for State University that we have tested the accuracy of said list by the plats, and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved this 21 day of April, 1904; that the whole of said lands are surveyed public lands of the United States, no part thereof being returned as mineral lands, nor is there any homestead, pre-emption, or other valid claim to any portion of said lands on file or record in this office. We further certify that the said list shows an assessment of fees payable to us to the amount of \$., which amount has been paid to the undersigned, the Receiver, by the said State of Idaho in full payment and discharge of said fees.

.,
Register.

.,
Receiver.

[3647—277]

Endorsed: List No. 6.

State University.

. SELECTIONS.

Lewiston Land District,

. Acres

Received and Filed April 21, 1904.

Approved, 190. [3648—278]

Plaintiff's Exhibit 115.

4-062.

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The Non-mineral Affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

DEPARTMENT OF THE INTERIOR.

United States Land Office.

Lewiston, Idaho, April 21, 1904.

M. L. Goldsmith, being duly sworn according to law, deposes and says that he is the identical person who has been appointed by the State Board of Land Commissioners of Idaho to apply for Government title to the

Township 38 North, Range 6 East.

	Sec.
N.1/2 SW.1/4,	8
N.1/2, N.1/2 SW.1/4, SW.1/4 SW.1/4, SE.1/4,	13
All of	14
S.1/2 NE.1/4, S.1/2 NW.1/4,	15
S.1/2,	17
W.1/2 NE.1/4, NW.1/4, W.1/2 SE.1/4,	20
E.1/2, NW.1/4,	22
S.1/2 NE.1/4, SE.1/4,	23
S.1/2, NW.1/4 NW.1/4,	24
All of	25
All of	26

	Sec.
All of	27
NE.1/4, S.1/2, NW.1/4, S.1/2	28
Lots 3, 4, E.1/2 SW.1/4,	30
Lots 1, 2, 3, 4, E.1/2 NW.1/4, E.1/2 SW.1/4, SE.1/4,	31
E.1/2	32
N.1/2 NE.1/4, SW.1/4 NE.1/4, NW.1/4,	33

That he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him [3649—279] to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to the mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is Spalding, Idaho.

M. L. GOLDSMITH.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in Lewiston, Idaho, within the Lewiston, Idaho land district, on this 21st day of April, 1904.

J. B. WEST,
Register.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the [3650—280] following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

REVISED STATUTES OF THE UNITED STATES.

Title LXX.—CRIMES.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than

two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

LIST NO. 9 EXHIBITING THE TRACTS OF PUBLIC LANDS.

Situated in the District of Lands subject to sale at Lewiston, Idaho, which have been selected by the State of Idaho under the provisions of the Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State of Idaho, for State Normal. [3651—281]

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
N. $\frac{1}{2}$ SW. $\frac{1}{4}$,	8	38	6E.	80
N. $\frac{1}{2}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW.				
$\frac{1}{4}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	13	"	"	600
All	14	"	"	640
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$,	15	"	"	160
S. $\frac{1}{2}$,	17	"	"	320
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W.				
$\frac{1}{2}$ SE. $\frac{1}{4}$,	20	"	"	320
E. $\frac{1}{2}$, NW. $\frac{1}{4}$,	22	"	"	480
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$,	23	"	"	240
S. $\frac{1}{2}$, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$,	24	"	"	360
All	25	"	"	640
All	26	"	"	640
All	27	"	"	640
NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, S.				
$\frac{1}{2}$,	28	"	"	560
Lots 3, 4, , E. $\frac{1}{2}$ SW.				
$\frac{1}{4}$,	30	"	"	157.40
Lots 1, 2, 3, 4, E. $\frac{1}{2}$, NW.				

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
$\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	31	38	6E.	474.16
E. $\frac{1}{2}$,	32	"	"	320
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE.				
$\frac{1}{4}$, NW. $\frac{1}{4}$	33	"	"	280
				<hr/> 6911.56

Office of State Board of Land Commissioners of the
State of Idaho.

To the Register and Receiver U. S. Land Office, Lewiston, Idaho:

I, Norman Jackson, Selecting Agent of the State Board of Land Commissioners of the State of Idaho, acting for and by authority of the State Board of Land Commissioners for the State of Idaho, do hereby certify that on the 21 day of April, 1904, I did select from the surveyed, unappropriated, unreserved and nonmineral public lands, within the district of lands subject to sale at Lewiston, Idaho, the several tracts described in this list, as part of the grant to the State of Idaho under the provisions of the Section of the [3652—282] Act of Congress approved July 3, 1890, for State Normal Schools. Original grant 100,000 acres; Heretofore selected 91,754.81; Amount of this selection 6911.56 acres still to be selected 1,333.63 acres.

Now, therefore, I hereby offer for filing said list, together with my affidavit of the non-mineral character of the lands described in said list. The filing fee, amounting to \$88, accompanies the said list.

Given under my hand this 21 day of April, 1904.

.....,

Selecting Agent of the State Board of Land Commissioners of the State of Idaho.

United States Land Office,
Lewiston, Idaho, April 21, 1904.

We hereby certify that we have carefully examined the foregoing list of lands selected by the State of Idaho, under the provisions of the Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State for State Normal that we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved this 21 day of April, 1904, that the whole of said lands are surveyed public lands of the United States, no part thereof being returned as mineral lands, nor is there any homestead, pre-emption, or other valid claim to any portion of said lands on file or record in this office. We further certify that the said list shows an assessment of fees payable to us to the amount of \$., which amount has been paid to the undersigned, the Receiver, by the said State of Idaho in full payment and discharge of said fees.

.,
Register. [3653—283]
.,
Receiver.

Endorsed: List No. 9.
State Normal
. SELECTIONS
. Land District,
. Acres

Received and Filed April 27, 1904.
Approved, 190. [3654—284]

Plaintiff's Exhibit No. 116.

4-062.

NONMINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The Nonmineral Affidavit accompanying an entry of public lands must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

DEPARTMENT OF THE INTERIOR.**UNITED STATES LAND OFFICE.**

Lewiston, Idaho, June 20, 1904.

Melvorn C. Scott, being duly sworn according to law, deposes and says that he is the identical Melvorn C. Scott who has been appointed by the State Board of Land Commissioners of Idaho to apply for Government title to the:

	Sec.	Town.	Range.	Area.
Lots 2, 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$,	3	39N.	4E.	346.51
Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, Lots 3, 6, 7, 10, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$,	4	"	"	494.50
SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Lots 3, 4, S. $\frac{1}{2}$, NW. $\frac{1}{4}$, SW. $\frac{1}{4}$,	5	"	"	353.95
Lots 1, & 2 S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$,	6	"	"	315.03
NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Lot 5, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Lot 4, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$,	8	"	"	355.25

	Sec.	Town.	Range.	Area
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW.				
$\frac{1}{4}$, Lot 1, SW. $\frac{1}{4}$,	9	39N.	4E.	474.40
NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$				
NW. $\frac{1}{4}$, W. $\frac{1}{4}$ SW. $\frac{1}{4}$,	10	"	"	200.
S. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$,	12	"	"	240.
NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW.				
$\frac{1}{4}$, SW. $\frac{1}{4}$,	13	"	"	560.
SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$				
SW. $\frac{1}{4}$,	14	"	"	120
NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, N.				
$\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$,	15	"	"	480
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, SE.				
$\frac{1}{4}$ NW. $\frac{1}{4}$, Lots 1, 3,				
SW. $\frac{1}{4}$,	17	"	"	508.80
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE.				
$\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, NW. $\frac{1}{4}$				
SE. $\frac{1}{4}$, Lots 1, 3, E. $\frac{1}{2}$				
NE. $\frac{1}{4}$, E. $\frac{1}{2}$, SW. $\frac{1}{4}$,				
Lots 4, 5,	19	"	"	548.25
NW. $\frac{1}{4}$, SE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW.				
$\frac{1}{4}$,	20	"	"	120
NW. $\frac{1}{4}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW.				
$\frac{1}{4}$,	21	"	"	120
S. $\frac{1}{2}$ NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$				
NW. $\frac{1}{4}$,	23	"	"	280
[3655—285]				
N. $\frac{1}{2}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW.				
$\frac{1}{4}$ SW. $\frac{1}{4}$,	24	"	"	440
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$, NW.				
$\frac{1}{4}$,	25	"	"	560

	Sec.	Town.	Range.	Area
All,	26	39N.	4E.	640
S. $\frac{1}{2}$ SE. $\frac{1}{4}$,	27	"	"	80
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, Lots 5, 7, 10,				
E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Lots 8, 9,	30	"	"	374.76
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE.				
$\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Lots 3,				
4, E. $\frac{1}{2}$, SW. $\frac{1}{4}$, lots 9,				
10,	31	"	"	439.30
S. $\frac{1}{2}$,	32	"	"	320
S. $\frac{1}{2}$,	33	"	"	320
E. $\frac{1}{2}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, SW.				
$\frac{1}{4}$,	34	"	"	520
All,	35	"	"	640

 9850.75

That he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise;

that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to the mineral land, but with the object of securing said land for agricultural purposes, and that his postoffice address is Lewiston, Idaho.

MELVERN C. SCOTT.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known [3656—286] (or has been satisfactorily identified before me by), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in, within the Lewiston, Idaho, land district, on this 20th day of June, 1904.

J. B. WEST,
Register.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. Title LXX.—CRIMES.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States au-

thorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

LIST NO. 6 EXHIBITING THE TRACTS OF PUBLIC LANDS.

Situated in the District of Lands subject to sale at [3657—287] Lewiston, Idaho, which have been selected by the State of Idaho under the provisions of the 11th Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State of Idaho, for Charitable and Penal Institutions.

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
Lots 2, 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$ SW. $\frac{1}{4}$,	3	39N.	4E.	346.51
Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, Lots 3, 6, 7, 10, SE. $\frac{1}{4}$, SW. $\frac{1}{4}$,	4	"	"	494.50
SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Lots 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$,	5	"	"	353.95
Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$,	6	"	"	315.03
NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ NE. $\frac{1}{4}$,				

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
Lot 5, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Lot 4, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Lot 1, SW. $\frac{1}{4}$, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$, NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$, SW. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, SE. $\frac{1}{4}$, NW. $\frac{1}{4}$, Lots 1, 3, SW. $\frac{1}{4}$, N. $\frac{1}{2}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Lots, 1, 3, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Lots 4, 5, NW. $\frac{1}{4}$, SE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, W. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$, NW. $\frac{1}{4}$,	8 9 10 12 13 14 15 17 19 20 21 23 24 25	39N. " " " " " " " " " " " " "	4E. " " " " " " " " " " " " "	355.25 474.40 200 240 560 120 480 508.80 548.25 120 120 280 440 560

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
All,	26	39N.	4E.	640
S. $\frac{1}{2}$ SE. $\frac{1}{4}$,	27	"	"	80
N. $\frac{1}{2}$ NE $\frac{1}{4}$, Lot 5, Lots 7, [3658—288]				
10, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Lots				
8, 9,	30	"	"	374.76
W. $\frac{1}{2}$ NE. $\frac{1}{4}$, W. $\frac{1}{2}$ SE.				
$\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Lots 3,				
4, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Lots 9,				
10,	31	"	"	439.30
S. $\frac{1}{2}$,	32	"	"	320
S. $\frac{1}{2}$,	33	"	"	320
E. $\frac{1}{2}$, SE. $\frac{1}{4}$, NW. $\frac{1}{4}$, SW.				
$\frac{1}{4}$,	34	"	"	520
All,	35	"	"	640
				<hr/>
				9850.75

Office of State Board of Land Commissioners of the
State of Idaho.

To the Register and Receiver U. S. Land Office, Lewiston, Idaho:

I, Norman Jackson Selecting Agent of the State Board of Land Commissioners of the State of Idaho, acting for and by authority of the State Board of Land Commissioners for the State of Idaho, do hereby certify that on the 20th day of June, 1904, I did select from the surveyed, unappropriated, unreserved and nonmineral public lands, within the district of lands subject to sale at Lewiston, Idaho, the several tracts described in this list, as part of the grant to the State of Idaho under the provisions of the 11th Section of the Act of Congress approved

July 3, 1890, for Charitable and Penal Institutions. Amount of original grant, 150,000 acres; heretofore selected, 133,758.02 acres; amount unselected, 16,241.98 acres; this selection, 9,850.80 acres; still to be selected, 6,391.18.

Now, therefore, I hereby offer for filing said list, together with my affidavit of the nonmineral character of the lands described in said list. The filing fee, amounting to \$124, accompanies the said list.

Given under my hand this 20th day of June, 1904.
[3659—289]

NORMAN JACKSON,

Selecting Agent of the State Board of Land Commissioners of the State of Idaho.

United States Land Office,
Lewiston, Idaho, June 20, 1904.

We hereby certify that we have carefully examined the foregoing list of lands selected by the State of Idaho, under the provisions of the 11th Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State for Charitable and Penal Institutions that we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved this 20th day of June, 1904; that the whole of said lands are surveyed public lands of the United States, no part thereof being returned as mineral lands, nor is there any homestead, pre-emption, or other valid claim to any portion of said lands on file or record in this office. We further certify that the said list shows an assessment of fees payable to us to

the amount of \$124.00, which amount has been paid to the undersigned, the Receiver, by the said State of Idaho in full payment and discharge of said fees.

J. B. WEST,
Register.

CHARLES H. GARBY,
Receiver.

Endorsed: List No. 6. Charitable Institutions.
....., SELECTIONS, Lewiston Land District,
[3660—290] Acres Received
and Filed June 20, 1904, 10:30 A. M. Approved
....., 190.... [3661—291]

Plaintiff's Exhibit No. 117.

4-062.

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The Non-Mineral Affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

DEPARTMENT OF THE INTERIOR.

UNITED STATES LAND OFFICE,

Lewiston, Idaho, April 21, 1904.

J. B. Lafferty, being duly sworn according to law, deposes and says that he is the identical person who has been appointed by the State Board of Land Commissioners of Idaho to apply for Government title to the

Township 39, Range 5 East.

	Sec.
Lots 7, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$,	6
Lots 1, 2, 3, 4, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$	7
SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$,	17
All of	18
N. $\frac{1}{2}$	19
SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE.	
$\frac{1}{4}$,	20
W. $\frac{1}{2}$,	21
NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$,	28
N. $\frac{1}{2}$ NW. $\frac{1}{4}$,	29
Lots 3, 4, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	30
Lots 1, 2, 3, 4, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$	
SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	31
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$,	32
E. $\frac{1}{2}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$,	33

Township 38 North, Range 5 East.

S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$,	5
Lots 2, 3, 4, 5, 6, 7, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ [3662—292]	
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	6
Lots 1, 2, 3, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$,	
SE. $\frac{1}{4}$,	7
NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$,	8
Lot 4, N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$,	18
Lots 1, 2, 3, NE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	19

That he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the

limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to the mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is Boise, Idaho.

J. B. LAFFERTY.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before by [3663—293]), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in, within the Lewiston, Idaho land district, on this day of, 190.....

.....

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state

to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

REVISED STATUTES OF THE UNITED STATES. Title LXX.—CRIMES.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)
[3664—294]

4-062.

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The Non-Mineral Affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

DEPARTMENT OF THE INTERIOR.
UNITED STATES LAND OFFICE.

Lewiston, Idaho, April 21, 1904.

M. L. Goldsmith, being duly sworn according to law, deposes and says that he is the identical person who has been appointed by the State Board of Land Commissioners of Idaho to apply for Government title to the

Township 38 North, Range 5 East.

	Sec.
S. $\frac{1}{2}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SW. $\frac{1}{4}$,	9
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$,	15
N. $\frac{1}{2}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$	17
SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$,	
E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	20
S. $\frac{1}{2}$ SW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$,	21
N. $\frac{1}{2}$ SW. $\frac{1}{4}$, sec	22
N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	24
S. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	25
S. $\frac{1}{4}$ NW. $\frac{1}{4}$. S. $\frac{1}{2}$.	26
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$	27
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	28
All of	29
E. $\frac{1}{2}$	30
NE. $\frac{1}{4}$	31
W. $\frac{1}{2}$ NW. $\frac{1}{4}$	32
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$,	33
NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$, NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW	
$\frac{1}{4}$, SE. $\frac{1}{4}$,	34
All of	35

That he is well acquainted with the character of said described land, and with each and every legal subdi-

vision [3665—295] thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that the land contains no salt spring, or deposits of salt in any form sufficient to render it chiefly valuable therefor; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to the mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is Spalding, Idaho.

M. L. GOLDSMITH.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in Lewiston, Idaho, within the Lewiston, Idaho land district, on this 21st

day of April, 1904.

.....,

Register. [3666—296]

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. Title LXX.—CRIMES.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

LIST NO. 6 EXHIBITING THE TRACTS OF PUBLIC LANDS.

Situated in the District of Lands subject to sale at Lewiston, Idaho, which have been selected by the State of Idaho under the provisions of the
Section of the Act of Congress approved July 3,

1890, in satisfaction of the grant to said State of Idaho, for Scientific School. [3667—297]

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$	5	38 N.	5 E.	120
Lots 2, 3, 4, 5, 6, 7, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	6	"	"	408.64
Lots 1, 2, 3, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	7	"	"	551.81
NW. $\frac{1}{4}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, SW. $\frac{1}{4}$,	8	"	"	280
S. $\frac{1}{2}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SW. $\frac{1}{4}$,	9	"	"	120
N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$,	15	"	"	160
N. $\frac{1}{2}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$,	17	"	"	480
Lots 4, N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$	18	"	"	237.13
Lots 1, 2, 3, NE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$	19	"	"	471.11
SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	20	"	"	240
S. $\frac{1}{2}$ SW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$,	21	"	"	120
N. $\frac{1}{2}$ SW. $\frac{1}{4}$,	22	"	"	80
N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	24	"	"	240
S. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	25	"	"	160

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$	26	38N.	5E.	360
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$	27	"	"	480
S. $\frac{1}{2}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$,	28	"	"	400
All	29	"	"	640
E. $\frac{1}{2}$	30	"	"	320
NE. $\frac{1}{4}$,	31	"	"	160
W. $\frac{1}{2}$ NW. $\frac{1}{4}$,	32	"	"	80
NE. $\frac{1}{4}$ NE. $\frac{1}{4}$,	33	"	"	40
NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	34	"	"	520
All	35	"	"	640
Lot 7, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$,	6	39 N.	5 E.	157.17
Lots 1, 2, 3, 4, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$,	7	"	"	469.60
SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$,	17	"	"	160
[3668—298]				
All	18	39 N.	5 E.	631.96
Lots 1, 2, NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$	19	"	"	317.19
SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$	20	"	"	360
W. $\frac{1}{2}$,	21	"	"	320
NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SE. $\frac{1}{4}$,	28	"	"	240
N. $\frac{1}{2}$ NW. $\frac{1}{4}$,	29	"	"	80
Lots 3, 4, , E. $\frac{1}{2}$ SW. $\frac{1}{4}$	30	"	"	159.62

Description of Tracts Selected.	Sec.	Town.	Range.	Area of Tracts.
Lots 1, 2, 3, 4, SW. $\frac{1}{4}$ NE.				
$\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, E. $\frac{1}{2}$				
SW. $\frac{1}{4}$, SE. $\frac{1}{4}$,	31	39N.	5E.	520
SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW.				
$\frac{1}{4}$,	32	"	"	80
E. $\frac{1}{2}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE.				
$\frac{1}{4}$,	33	"	"	120
				<hr/>
				10924.23

Office of State Board of Land Commissioners
of the State of Idaho.

To the Register and Receiver U. S. Land Office Lewiston, Idaho:

I, Norman Jackson Selecting Agent of the State Board of Land Commissioners of the State of Idaho, acting for and by authority of the State Board of Land Commissioners for the State of Idaho, do hereby certify that on the 21 day of April, 1904, I did select from the surveyed, unappropriated, unreserved and non-mineral public lands, within the district of lands subject to sale at Lewiston, Idaho, the several tracts described in this list, as part of the grant to the State of Idaho under the provisions of the 11th Section of the Act of Congress approved July 3, 1890, for Scientific Schools purposes, Original grant, 100,000 acres; amount heretofore selected, 88,807.96 acres; amount of this selection 10924.23 acres; still to be selected 267.81 acres.

Now, therefore, I hereby offer for filing said list, together with my affidavit of the non-mineral character of the lands described in said list. The filing

fee, amounting to \$138, accompanies the said list.
[3669—299]

Given under my hand this 21 day of April, 1904.

.....,

Selecting Agent of the State Board of Land Commis-
sioners of the State of Idaho.

United States Land Office, Lewiston, Idaho,
April 21, 1904.

We hereby certify that we have carefully examined the foregoing list of lands selected by the State of Idaho, under the provisions of the Section of the Act of Congress approved July 3, 1890, in satisfaction of the grant to said State for Scientific Schools that we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved this 21 day of April, 1904, that the whole of said lands are surveyed public lands of the United States, no part thereof being returned as mineral lands, nor is there any homestead, pre-emption or other valid claim to any portion of said lands on file or record in this office. We further certify that the said list shows an assessment of fees payable to us to the amount of \$, which amount has been paid to the undersigned, the Receiver, by the said State of Idaho in full payment and discharge of said fees.

.....,

Register.

.....,

Receiver. [3670—300]

Endorsed: List No. 6

Scientific School.

.....SELECTIONS

Lewiston Land District,

..... Acres

Received and Filed April 21, 1904.

Approved, 190 [3671—301]

Plaintiff's Exhibit No. 118.

Map. Will send up original.

Plaintiff's Exhibit No. 119.

Map. Will send up original.

Plaintiff's Exhibit No. 120.

Copied in full in the transcript of the testimony
at page 2977. [3672—302]

Plaintiff's Exhibit P. H. W. No. 1.

Note signed by P. H. Waldman, dated Lewiston, Idaho, May 5, 1903, in the sum of \$300.00 payable to the order of C. W. Robnett in four months, at Lewiston National Bank, with interest at the rate of one per cent per annum, and also an additional sum of \$25.00, should suit be instituted to collect said note.

Endorsed: C. W. Robnett. [3673—303]

Defendants' Exhibit "P."

Warranty Deed. Made and acknowledged by Elizabeth White, September 4, 1907, conveying to Clearwater Timber Co., in fee simple, the S. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 15, all in Tp. 39, N. of Range 3 East, Boise Meridian, containing 160 acres. Consideration mentioned therein, \$1,200. Recorded at the request of F. J. Davis, September 16, 1907.

Defendants' Exhibit "Q."

Warranty Deed. Made and acknowledged by Elizabeth White, September 4, 1907, conveying to Clearwater Timber Co., in fee simple, the S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 15, Tp. 39, North of Range 3 East, Boise Meridian, containing 160 acres, more or less. Consideration mentioned therein \$1,600. Recorded at the request of F. J. Davis, September 16, 1907.

Defendants' Exhibit "T."

Warranty Deed. Made and acknowledged by John E. Chapman, June 7th, 1907, conveying to "Clearwater Timber Co.," in fee simple, the E. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 27, and the SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 12, and the NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 13, and the N. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 24, and the S. $\frac{1}{2}$ SW. $\frac{1}{4}$, and SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 24, and the NE. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 25, all in Tp. 40, N. of Range 4 East, Boise Meridian, containing 440 acres, also the S. $\frac{1}{2}$ NE. $\frac{1}{4}$, and the S. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 2, Tp. 37, N. of Range 5, East, Boise Meridian, containing 160 acres. Consideration mentioned therein, \$8,650. Recorded at the request of F. J. Davis, June 21, 1907.

Defendants' Exhibit "V."

Warranty Deed. Made and acknowledged by Frank W. Kettenbach, and wife, June 12 and 14, 1907, respectively, conveying to Clearwater Timber Co., in fee simple, the SE. $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, and the NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 26, in Tp. 37, North of Range 2 East, Boise Meridian, containing 80 acres; also the SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 26 in Tp. 37, North of Range

2 East, Boise Meridian, containing 40 acres. Consideration mentioned therein, \$800. Recorded at the request of F. J. Davis, July 13, 1907. [3674—304]

Defendants' Exhibit "X."

Warranty Deed. Made and acknowledged by Geary Van Artsdalen, Dec. 2 and Dec. 13, 1905, respectively, conveying to Clearwater Timber Co., in fee simple, the NE. 1/4 of Sec. 25, in Tp. 37, North of Range 5 East, Boise Meridian, containing 160 acres. Consideration mentioned therein, \$800. Recorded at the Request of F. J. Davis, Dec. 23, 1905. [3675—305]

Defendants' Exhibit No. L-1.

Indictment found, returned and filed in the United States District Court for the Northern Division of the District of Idaho, November 6, 1905, and numbered 617.

Said Indictment is in three counts and charges William B. Benton, Clarence W. Robnett and William F. Kettenbach with conspiracy to defraud the United States in violation of Sec. 5440, R. S. U. S.

Count No. 1 charges that before and on March 26, 1903, William B. Benton, Clarence W. Robnett and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: Lot 2 and the Southwest quarter of the Northeast quarter and the South half of the Northwest quarter of Section 24, Township 39, North of Range 3 East,

Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Benton, Robnett and Kettenbach on March 25, 1903, procured and induced one John H. Long to swear falsely in the sworn statement filed by him in the Land office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact [3676—306] the said John H. Long made his application to enter said land in pursuance of an agreement entered into with said Benton, Robnett and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said Benton, Robnett and Kettenbach and that the said John H. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach in the making of his entry. Said first count further charges that on June 18, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Benton, Robnett and Kettenbach procured the said John H. Long to falsely swear at said Land Office, that since the making of his application to purchase said land here-

inbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Benton, Robnett and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said John H. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach.

Count No. 2 charges that before and on March 26, [3677—307] 1903, William B. Benton, Clarence W. Robnett and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: North half of the Southwest quarter and the North half of the Southeast quarter, Section 13, Township 29, North of Range 3 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Benton, Robnett and Kettenbach on March 26, 1903,

procured and induced one Francis M. Long to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Francis M. Long made his application to enter said land in pursuance of an agreement entered into with said Benton, Robnett and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said Benton, Robnett and Kettenbach and that the said Francis M. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach in the making of his entry. Said second count further charges that [3678—308] on June 18, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Benton, Robnett and Kettenbach procured the said Francis M. Long to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in

any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Benton, Robnett and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Francis M. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach.

Count No. 3 charges that before and on March 26, 1903, William B. Benton, Clarence W. Robnett and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz., South half of the Northwest quarter and the South half of the Northeast quarter of Section 13, Township 39, North of Range 3 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said [3679,—309] Benton, Robnett and Kettenbach on March 26, 1903, procured and induced one Benjamin F. Long to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day,

that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Benjamin F. Long made his application to enter said land in pursuance of an agreement entered into with said Benton, Robnett and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said Benton, Robnett and Kettenbach and that the said Benjamin F. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach in the making of his entry. Said third count further charges that on June 18, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Benton, Robnett and Kettenbach procured the said Benjamin F. Long to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and [3680—310] that he

had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Benton, Robnett and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Benjamin F. Long was acting as the agent of and in collusion with the said Benton, Robnett and Kettenbach. [3681—311]

Defendants' Exhibit No. M-1.

Indictment found, returned and filed in the United States District Court for the Northern Division of the District of Idaho, November 6, 1905, and numbered 618.

Said Indictment is in two counts and charges Fred Emery, C. W. Colby, George H. Kester and William F. Kettenbach with conspiracy to defraud the United States in violation of Sec. 5440, R. S. U. S.

Count No. 1 charges that before and on March 24, 1903, Fred Emery, C. W. Colby, George H. Kester and William F. Kettenbach and others to the Grand Jurors unknown, conspired to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: South half of the Northwest quarter and the West half of the Southwest quarter of Section 25, in Township 39, North of Range 3 East, Boise Meridian, by means of false, fraudulent, untrue and

illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Emery, Colby, Kester and Kettenbach on March 24, 1903, procured and induced one James C. Evans to swear falsely in the sworn statement filed by him in the land office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said James [3682—312] C. Evans made his application to enter said land in pursuance of an agreement entered into with said Emery, Colby, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said Emery, Colby, Kester and Kettenbach and that the said James C. Evans was acting as the agent of and in collusion with the said Emery, Colby, Kester and Kettenbach in the making of his entry. Said first count further charges that on June 17, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Emery, Colby, Kester and Kettenbach procured the said James C. Evans to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this

count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any person whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Emery, Colby, Kester and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said James C. Evans was acting as the agent of and in collusion with the said Emery, Colby, Kester and Kettenbach.

Count No. 2 charges that before and on April 2, 1903, Fred Emery, C. W. Colby, George H. Kester and William F. Kettenbach and others to the Grand Jurors unknown, conspired [3683—313] to defraud the United States of the title and possession of large tracts of land situated in the County of Shoshone in the State of Idaho, of which the following is a part, viz.: North half of the Northeast quarter and the North half of the Northwest quarter of Section 14, Township 39, North of Range 3 East, Boise Meridian, by means of false, fraudulent, untrue and illegal entry under the land laws of the United States; that to effect the object of said conspiracy, the said Emery, Colby, Kester and Kettenbach on

April 2, 1903, procured and induced one Charles Dent to swear falsely in the sworn statement filed by him in the Land Office at Lewiston, Idaho, on that day, that he did not apply to purchase the land hereinbefore in this count described on speculation, but in good faith to appropriate it to his own exclusive use and benefit and that he had not directly or indirectly made any agreement or contract in any way or in any manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States would inure in whole or in part to the benefit of any person except himself, when in truth and in fact the said Charles Dent made his application to enter said land in pursuance of an agreement entered into with said Emery, Colby, Kester and Kettenbach to the effect that the title he might acquire from the Government would inure to the benefit of the said Emery, Colby, Kester and Kettenbach and that the said Charles Dent was acting as the agent of and in collusion with the said Emery, Colby, Kester and Kettenbach in the making of his entry. Said second count further charges that on June 23, 1903, in further pursuance of said conspiracy and to effect the object thereof, the said Emery, Colby, Kester and Kettenbach [3684—314] procured the said Charles Dent to falsely swear at said Land Office, that since the making of his application to purchase said land hereinbefore in this count described, he had not sold or transferred said land, nor had he directly or indirectly made any agreement or contract in any way or in any manner with any per-

son whomsoever, by which the title he might acquire from the Government of the United States might inure in whole or in part to the benefit of any person except himself, and that he had made the entry for the said land in good faith and for his own exclusive use and benefit and not for the use and benefit of any other person than himself and that no person, firm, corporation or association had any interest in said land; that said testimony was false and that Emery, Colby, Kester and Kettenbach at the time of the making thereof knew it to be false and untrue and that in giving said testimony the said Charles Dent was acting as the agent of and in collusion with the said Emery, Colby, Kester and Kettenbach. [3685—315]

Defendants' Exhibit S-1.

Deed. Made and acknowledged by George H. Kester and wife and William F. Kettenbach and wife, August 21, and August 28, 1906, respectively, granting to Potlatch Lumber Co., in fee simple, the E. $\frac{1}{2}$ SW. $\frac{1}{4}$ and Lots 6 & 7, in Sec. 27, Tp. 40 North of Range 1 West, Boise Meridian. Consideration mentioned therein, \$2200. Recorded at the request of the Latah County Abstract Co., Oct. 9, 1906.

Defendants' Exhibit T-1.

Deed. Made and acknowledged by William F. Kettenbach and wife, June 17th, 1903, conveying to the Potlatch Lumber Co., in fee simple, the S. $\frac{1}{2}$ SE. $\frac{1}{4}$ of Sec. 29, and the SE. $\frac{1}{4}$ of Sec. 23, in Tp. 42 North of Range 1 West, Boise Meridian, and the S. $\frac{1}{2}$ NW. $\frac{1}{4}$, the W. $\frac{1}{2}$ NE. $\frac{1}{4}$ and the NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, and the NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ of Sec. 35, and the

SW. $\frac{1}{4}$ NW. $\frac{1}{4}$ of Sec. 22, in Tp. 40 North of Range 1 West, Boise Meridian, and the SE. $\frac{1}{4}$ SE. $\frac{1}{4}$, of Sec. 19, and the SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 20, in Tp. 42 North of Range 1 East, Boise Meridian. Consideration mentioned therein, \$7500. Recorded at the request of Latah County Abstract Co., June 18, 1903.

Defendants' Exhibit U-1.

Deed. Made and acknowledged by George H. Kester and wife, June 17th, 1903, conveying to Potlatch Lumber Co., the E. $\frac{1}{2}$ SE. $\frac{1}{4}$ of Sec. 30, and the NE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 31, and the NW. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 32, in Tp. 42 North of Range 1 West, Boise Meridian. Consideration mentioned therein, \$2,000. Recorded at the request of Latah County Abstract Co., June 18th, 1903.

Defendants' Exhibit V-1.

Deed. Made and acknowledged by William F. Kettenbach and wife, and George H. Kester and wife, June 17th, 1903, conveying to Potlatch Lumber Co., in fee simple, the NE. $\frac{1}{4}$ of Sec. 32, and the SW. $\frac{1}{4}$ of Sec. 29, in Tp. 42 North of Range 1 West, Boise Meridian, and the E. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, and the NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ of Sec. 27, in Tp. 40 North of Range 1 West, Boise Meridian. Consideration mentioned therein, \$6,000. Recorded at the request of Latah County Abstract Co., June 18, 1903. [3686—316]

Defendants' Exhibit H-2.

Deed. Made and acknowledged by William Dwyer and wife, Kittie E., Dec. 31, 1908, conveying

to Idaho Trust Co., in fee simple, the E. $\frac{1}{2}$ SW. $\frac{1}{4}$, and the W. $\frac{1}{2}$ SE. $\frac{1}{4}$ of Sec. 20, and the SE. $\frac{1}{4}$ of Sec. 21, in Tp. 39 North of Range 5 East, Boise Meridian; and the SW. $\frac{1}{4}$ of Sec. 20, and the SE. $\frac{1}{4}$ of Sec. 30, and the N. $\frac{1}{2}$ SW. $\frac{1}{4}$, and the N. $\frac{1}{2}$ SE. $\frac{1}{4}$ of Sec. 15, in Tp. 38 North of range 6 East, Boise Meridian, and the SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, and the NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ of Sec. 15, in Tp. 38 North of Range 5 East, Boise Meridian, containing 960 acres. Consideration mentioned therein, \$1. Recorded at the request of the Lewiston Abstract Co. Jan. 4, 1909.

Defendants' Exhibit K-2.

Quitclaim deed. Made and acknowledged by Elizabeth White, October 25 and 26, 1907, respectively, quitclaiming to the Lewiston National Bank, Lots 2, 3, 6, and 7, of Sec. 30 and Lots Numbered 5 and 8, and the E. $\frac{1}{2}$ SW. $\frac{1}{4}$ of Sec. 30, in Tp. 38 North of Range 2 East, Boise Meridian, containing 310 and forty-hundredths of an acre. Consideration mentioned therein, \$1. Recorded at the request of the Lewiston Abstract Co., Oct. 28, 1907.

Defendants' Exhibit L-2.

Quitclaim deed. Made and acknowledged by Clarence W. Robnett and wife, Oct. 25th and 26th, 1907, respectively, quitclaiming to the Lewiston National Bank, Lots 2, 3, 6, and 7, of Sec. 30, and the Lots numbered 5, and 8, and the E. $\frac{1}{2}$ SW. $\frac{1}{4}$ of Sec. 30, all in Tp. 38 North of Range 2 East, Boise Meridian, containing 310 acres and forty hundredths of an acre. Consideration mentioned therein, \$1. Re-

corded at the request of the Lewiston Abstract Co., October 28, 1907.

Defendants' Exhibit P-2.

Deed. Made and acknowledged by Lewiston National Bank, January 8th, 1910, conveying to the Idaho Trust Co., lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, in block 3, and lots 10, 11, 12, 13, 14, 15, 16, in block 13, and lots 7, 8, 9, 10, 11, and 12, in block 15, and lots 5, 6, 7, 8, and 9, in block 16, of Nez Perce addition to the City of Lewiston, Idaho, [3687—317] and the SW. $\frac{1}{4}$ of Sec. 10, in Tp. 39 North of Range 3 East, Boise Meridian, in Idaho, containing 160 acres, and the SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ of Sec. 26, and the SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ of Sec. 25, and the N. $\frac{1}{2}$ of the NE. $\frac{1}{4}$ of Sec. 35, in Tp. 40 North of Range 3 East, Boise Meridian, containing 160 acres and Lots 2, 3, 6, and 7, of Sec. 30, in Tp. 38 North of Range 2 East of Boise Meridian, containing 150 acres and forty hundredths of an acre, and lots numbered 5 & 8, and the E. $\frac{1}{2}$ SW. $\frac{1}{4}$ of Sec. 30, in Tp. 38 North of Range 2 East of Boise Meridian, containing 160 acres and lots 4 and 5 in Block 44, and lot 8 in Block 47, in the town of Nez Perce, according to the record of the plat thereof, and one-half interest in lot 3, in Sec. 7, Tp. 35 North of Range 5 West of Boise Meridian, and the W. $\frac{1}{2}$ SE. $\frac{1}{4}$ and the NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ of Sec. 12, Tp. 35 North of Range 6 West, Boise Meridian. Said deed was executed by Lewiston National Bank, by Frank W. Kettenbach, president, and Edward C. Smith, cashier. Consideration mentioned therein, \$1, and is recorded at the request of Idaho Trust Co., January 12th, 1910. [3688—318]

Plaintiff's Exhibit No. 47-h.

Testimony of Hattie Rowland given on cross-examination at final proof.

Answer to question No. 7 thereof: Yes. William Dwyer, \$100.00.

Answer to question No. 8 thereof: Yes, July 8-04 went over the land with Mr. Bliss.

Answer to question No. 10 thereof: A million and a quarter or a half. Value \$1,000.00.

Answer to question No. 12 thereof: Use it for my own benefit.

Answer to question No. 13 thereof: I do not.

Answer to question No. 14 thereof: No.

Answer to question No. 15 thereof: I don't know.

Answer to question No. 16 thereof: I did. I do.

Answer to question No. 17 thereof: Part I had and the rest I borrowed—part of it a year.

Answer to question No. 18 thereof: No. [3689—319]

Plaintiff's Exhibit No. 54-q.

Certified copy of notice of *lis pendens* that suit had been brought in the Circuit Court of the United States for the District of Idaho in the Northern Division thereof by the United States vs. William F. Kettenbach et al., in Equity No. 406, to vacate and set aside patents issued by the United States for the land described in the claims and entries of Rowland A. Lambdin, Ivan R. Cornell and Fred W. Shaeffer. Recorded at the office of the Recorder of Latah County, September 7, 1909. [3690—320]

Defendants' Exhibits Nos. V-2 and W-2 and Plaintiff's Exhibit No. 120 are endorsed: Filed June

24, 1911, A. L. Richardson, Clerk; all other exhibits are endorsed: Filed November 7, 1910. [3691—321]

Defendants' Exhibit "A."

Oct. 15, 1910.

State of Idaho,

County of Nez Perce,—ss.

Chas. S. Myers, being duly sworn, deposes and says: That he is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement of understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company or corporation. That said entry was made and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in no wise nor in any way had any interest in or to said lands or the title thereto directly or indirectly prior to the negotiations

for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to wit:

Northwest quarter, sec. 29, Tp. 38 N., R. 6 E., B. M.

CHAS. S. MYERS.

Subscribed and sworn to before me this 21st day of Dec., 1906.

WILLIAM J. TODD,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3692]

Defendants' Exhibit "B."

State of Idaho,
County of Nez Perce,—ss.

Jennie Myers, being duly sworn, deposes and says: That he is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company or corporation. That said entry was made and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here

makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in no wise nor in any way had any interest in or to said lands or the title thereto directly or indirectly prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to wit:

West half Southwest quarter, Sec. 25, Tp. 38 N., R. 5 E., B. M.

JANNIE MYERS.

Subscribed and sworn to before me this 21st day of December, 1906.

WILLIAM J. TODD,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3693]

Defendants' Exhibit "C."

State of Idaho,
County of Nez Perce,—ss.

Frank J. Bonney, being duly sworn, deposes and says: That he is the identical party who made entry

of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company or corporation. That said entry was made and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in no wise nor in any way had any interest in or to said lands or the title thereto directly or indirectly prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to wit:

E. $\frac{1}{2}$ of SE. $\frac{1}{4}$ Sec. 33 NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$ Sec. 34 Tp. 37 N. R. 5 E. and Lot one of Sec. 4 Tp. 36 N. 5 E. B. M.

FRANK J. BONNEY.

Subscribed and sworn to before me this 20th day of Dec., 1906.

WILLIAM J. TODD,

Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3694]

Defendants' Exhibit "D."

State of Idaho,

County of Nez Perce,—ss.

Clinton E. Perkins, being duly sworn, deposes and says: That he is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage, directly or indirectly, of any person, company, or corporation. That said entry was made, and said title acquired, solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described

lands, and that the said purchaser in no wise nor in any way had any interest in or to said lands, or the title thereto, directly or indirectly, prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to wit:

Lots No. Three and Four Sec. 3 Township 36 N., R. 5 E., B. M. South half Southwest quarter of Section 34 Township 37 N., R. 5 E., B. M.

CLINTON E. PERKINS.

Subscribed and sworn to before me this 28th day of February, A. D. 1907.

WILLIAM J. TODD,
Notary Public, in and for Nez Perce County, Idaho.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3695]

Defendants' Exhibit "E."

State of Washington,
County of Asotin,—ss.

Charles W. Taylor, being first duly sworn, says: That he is a citizen of the United States and now is and for about twenty years last past has been a resident of Asotin County, Washington, that early in October, 1903, he had a conversation with his uncle, Jackson O'Keefe, at the city of Asotin in Asotin County, Washington, in which his said uncle informed him that he, his said uncle, knew of an opportunity where they, meaning his uncle, Jackson

O'Keefe affiant's brother, Edgar Taylor and affiant, could get some timber claims, meaning thereby unappropriated Government land, subject to entry under the Stone and Timber Act; that he the said O'Keefe, believed it would be a good investment as he had been talking with men who ought to know and that the timber of the east was about consumed and that lumbermen were coming to the north-west for timber:

That his said uncle further informed him that each of them could procure one hundred and sixty acres from the government by paying the government price of four hundred dollars and the costs which including the locator's fee of one hundred dollars would amount to about one hundred and fifty dollars, making a total cost of five hundred and fifty dollars for one hundred and sixty acres; that affiant and his said brother did not have the necessary money to purchase a claim and his uncle knowing this volunteered to loan them the necessary money; affiant further says that he and his said uncle talked about how long they would have to hold the timber to make something on it; that his uncle said that he had sold his Cloverland property and had been investigating the matter with a view of investing the proceeds in timber lands and that he was informed that it would not be a great while before there would be a demand for all timber land in the west and that in his opinion we would not have to hold very long. Affiant then inquired about the value of one [3696] hundred and sixty acres of timber land and his said uncle told him that he, O'Keefe, would give him, af-

fiant, one hundred and fifty dollars more than it cost after affiant had made final proof.

Affiant further says that his said uncle asked him to inform his brother Edgar Taylor of the opportunity they had to acquire land and see what he, Edgar, thought about it, which affiant did the next day after having the above mentioned conversation with his said uncle.

Affiant further says that two or three days after having the first conversation with his uncle and after his uncle had been to Lewiston, Idaho, he had another conversation with him about the matter and his uncle then told him that he could not carry out the proposition to give him, this affiant, one hundred and fifty dollars, over and above the costs because he could not make any bargain to sell it until we had made our proof and got a receiver's receipt. He said that he would let us have the money to make proof and would take our note for it, but that we could not make any contract or bargain to sell it or even mortgage it until we had title; that it was against the law.

That on about the 12th of October, 1903, in company with one Edward Damerall, Joseph Prentice, Jackson O'Keefe and my brother Edgar Taylor, I started from Lewiston, Idaho, to go into the timber on what is known as the North Fork of the Clearwater country to locate on a stone and timber claim. We left the railroad at Orofino, Idaho, went to Pierce City, and from there to what is known as Brown's Cabin, where we met William Dwyer, a locator, at about noon on the 14th of October. That afternoon

Mr. Dwyer took us into the timber. We were all together while looking at a number of claims and while I had no conversation directly with Dwyer I heard him state to others that the claims would go from two million feet to three million feet and if we would hold them long enough they would be worth from fifteen [3697] hundred to two thousand dollars. In locating us he would take us across and over the claims and would point out or select one member of the party and say: "This is yours" and show the party his corners. I had no conversation with Dwyer about his fees, I understood that my uncle had arranged that with him. There was some reason why we could not get a filing of these claims at that time. My understanding was that the state of Idaho claimed a prior right but about April, 1904, we got a filing. I remember that we all went to Lewiston and stood in line or maintained our position in line at the Land Office Door for something like a week before this particular land was opened for filing. I cannot recall now where our filing papers were made out. My recollection, however, is that we gave our numbers to uncle Jackson O'Keefe and that he got some one to fill out the blanks furnished by the land office, or it may be that the locator, Dwyer, had blanks filled out; I know that when we reached the Land Office desk we had blanks prepared already for signature and we signed and swore to the application before an officer in the Land Office. After we filed, nothing was done till it came time for us to make proof. I do not remember of having any conversation with my uncle about this claim or about making final

proof, but I presume that we talked about it at about the time final proof was to be made. Something however was said about witnesses, I don't know whether it was while we were in the timber or while we were holding our position in the line when waiting for an opportunity to file; my understanding was that the locator, Dwyer, was to furnish us two witnesses to make final proof, and we did have some talk about who should be witnesses, one for the other. On the day that my brother and I were to prove up we gave our joint note to our uncle for the sum of eleven hundred dollars, and each of us received from him all the money necessary to make final proof and [3698] one hundred dollars locator's fee which I paid to Dwyer. I forgot to say that Uncle Jack had paid my expenses into the timber and the land office fees in addition to the above amount, but we figured up that the total expense amounted to five hundred and fifty dollars, each. My uncle gave me the money to make final proof and also gave me the one hundred dollars to pay the locator in the morning when my brother and I signed the eleven hundred dollar note at about nine o'clock. I paid something over four hundred dollars into the land office when I made my proof and the one hundred dollars I gave Dwyer between eleven and twelve o'clock. The note that my brother and I gave to Jackson O'Keefe was due twelve months after date, and was dated about July 11th, 1904. On the way home from Lewiston that day my brother, our uncle Jack and myself had a talk about this timber land we had made proof on, or it may have been that

evening after reaching Asotin, I told uncle Jack that I would take one hundred and fifty dollars in money for the claim and he cancel the note or my share of it. He accepted the proposition and told me that we would fix it up the next morning, and some time the next day I made out a deed and delivered it to him and he paid me one hundred and fifty dollars more. He told me that he had left the note at the bank as collateral but that he would take care of it and see that it was canceled. While I never had asked any legal advice upon the matter I have always understood that one acquiring title to land from the government had a legal right to convey the same after receiving a receiver's receipt therefor. I further say that I never at any time before making final proof made any contract or agreement with any person whomsoever to sell or convey the land I acquired title to under this stone and timber entry to any person or persons whomsoever. I did know, however, that my uncle would give me one hundred fifty dollars more than the land cost me after I had acquired title to it, but I never made any such agreement with him. Was advised by him not to make any agreement for any sale of or any mortgage upon the land. In fact, to make no agreement about the land whatever, until after I had got a title to it. [3699] I never at any time had any talk with George H. Kester, W. F. Kettenbach or William Dwyer about the land other than the conversations with Dwyer I have referred to above. I have no personal knowledge where my uncle Jack got the money he let me and my brother have to put into the

land, I know he was doing business at the Lewiston National Bank and I supposed he got it there, he told me he had borrowed the money and left our note as collateral.

And I further say that I am the identical Charles W. Taylor who testified as a witness before the Federal Grand Jury which returned an indictment endorsed thereon a true bill in the case now pending in the United States District Court for the District of Idaho, Northern Division, in which the United States is plaintiff and Jackson O'Keefe, George H. Kester, W. F. Kettenbach and William Dwyer are defendants, which indictment was returned at a term of said court holden in the City of Boise, State of Idaho, in July, 1905, which said indictment charges the said defendants with conspiracy to defraud the United States with respect to entrysts made by myself, Edward Dammerall, Edgar Taylor and Joseph H. Prentice at the Lewiston, Idaho, Land Office under the Timber and Stone Act.

I further say that the within and foregoing contains in substance all that I have ever told N. M. Ruick, District Attorney for the said Northern District of Idaho, and the substance of all that I testified to before the said Federal Grand Jury at the afore-said hearing.

CHARLES W. TAYLOR.

Subscribed and sworn to before me this 21 day of January, 1907.

[Seal]

GEO. H. RUMMENS,

Notary Public in and for the State of Washington,
Residing at Asotin, Washington.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3700]

Defendants' Exhibit "F."

State of Washington,
County of Asotin,—ss.

Jackson O'Keefe, being first duly sworn, on oath deposes and says that he is the identical Jackson O'Keefe who is a defendant in that certain case now pending in the United States District court for the District of Idaho, Northern Division, wherein the United States is plaintiff and Jackson O'Keefe, George H. Kester, W. F. Kettenbach and William Dwyer *and* defendants, which indictment was returned at a term of said court holden in the City of Boise, Idaho, in the month of July, 1905, and which indictment charges the said defendants with conspiracy to defraud the United States with respect to entries made by Joseph H. Prentice, Edgar Taylor, Charles W. Taylor and Edgar Dammarell, at the Lewiston, Idaho, Land Office under the Timber and Stone Act.

That I was subpoenaed to attend as a witness before said Grand Jury and in response to such subpoena went from my home at Asotin, Washington, to the City of Boise, Idaho, and was there called before said Grand Jury as a witness, and while in the grand jury room I started to tell the whole truth about the matter just as I had before told one O'Fallen and one Goodwin who had talked with me in Asotin County when N. M. Ruick, U. S. District Attorney, stopped me and said: "I don't want to hear any more of

that, you are not telling the truth and I know it. Mr. O'Keefe, you have got to help me convict Kester and Kettenbach or I will indict you." I said: "What do you want me to say?" He said: "You must testify that you had an agreement with Kettenbach and Kester before you went to the timber, that you would take those men out there and locate them on timber land, they (meaning Kettenbach and Kester) furnishing you with the money, or I will indict you." I said: "Mr. Ruick, I would be perjuring myself if I did that; I don't want to swear to a lie, still I don't want to be indicted." Mr. Ruick said: "I can't help that Mr. O'Keefe, [3701] it's your only way out of it." I said: "Mr. Ruick, if you were situated as I am would you swear a lie against *you* friend to keep from being indicted?" Mr. Ruick then said: "Mr. O'Keefe, have you a family?" I said: "Yes, sir. Six children. My wife is dead." He said: "Mr. O'Keefe, if I was fixed like you are, rather than be taken away from my children for six, eight or ten years I would do anything." I said: "I can't do it," and I didn't.

JACKSON O'KEEFE.

Subscribed and sworn to before me this 22d day of January, 1907.

GEO. H. RUMMENS,
Notary Public for the State of Washington, Residing
at Asotin, Washington.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3702]

Defendants' Exhibit "G."

State of Idaho,

County of Latah,—ss.

Edgar Taylor, being first duly sworn, deposes as follows: On or about October 8th, 1903, I was working at Cloverland, Asotin Co., Wash., on about that date my brother Charley Taylor came up from Asotin to Cloverland and told me that there was an opportunity for us, meaning him and myself, to file on some timber land and that Uncle Jack (meaning Jackson O'Keefe) would furnish us what money we each needed, and that Uncle Jack would give us One hundred fifty (\$150) more than the cost and expenses of proving up if we wanted to sell when we got title, that is, One hundred fifty (\$150) each. Afterwards, and I think on the 12th day of October, 1903, I saw Jackson O'Keefe in Lewiston and had a talk with him about the probable expenses and cost of the land and we figured at that time that the money necessary to make the trip into the timber to view the land, pay the locator's fees (which was \$100), the filing fees, and the purchase price of the land, would amount to about Five hundred fifty (\$550) each. Jackson O'Keefe, my brother Charley, one Joseph H. Prentice, Edward Dammerell and myself took the Clearwater train that afternoon on our way to inspect the timber. We stayed at Orofino that night, hired horses the next morning and went to the timber by way of Pierce City and Brown's cabin, stopping at Pierce City over night on the way. At Pierce City we met a man by the name of Bliss, who guided

us to Brown's cabin, where we met one William Dwyer about noon of the 14th. That afternoon Mr. Dwyer took us in to the timber. We were all together and while I can't give the entire conversation that I had with Dwyer nor that any of the others had, I remember that I asked him how much timber he thought was upon the claims and he told me that he thought they would run from two to three million feet. I also told him that I wanted to know that I was upon the land I was to file on, and I remember of Mr. Dwyer's saying here is a good claim and I will locate you on it if you [3703] want it, or words to that effect. I had no conversation with Dwyer about locator's fees; it was my understanding that my Uncle had an understanding with Dwyer about it. We had some further conversations about the timber and its value, and about when we could probably get a filing. There was some reason why we could not get a filing at that time, either the survey had not been approved or certain plats had not been filed in the land office, or the State had a prior right, and I am not able to say at this time what the exact reason was, but we returned to Lewiston and sometime the next spring I think about April, 1904, we got a filing. I think Mr. Dammerell notified me of this fact while I was working at Cloverland on the ditch, at any rate we all went to Lewiston and stood in line to file. I do not remember where my filing papers were made out; it seems to me now as if I asked Uncle Jack if he would see to it, or maybe he told me that he would see to it. After we filed nothing was done until it came time to make proof. I forgot to mention that

Uncle Jack paid my expenses on the trip into the timber and also gave me the money with which I made my filing, I don't remember the exact amount, eight dollars, I think, or it might have been a little over. When I filed some one of the men in the Land Office told me that I would get a paper containing a notice of the time when I would prove up, and to watch the paper and I could tell from it. I afterwards received a copy of a paper published at Pierce City (several copies) containing the notice of when I would make final proof. I don't remember of having any particular conversation with Jackson O'Keefe about this claim or making final proof, but I presume we talked about it; he was one of my witnesses and was going to furnish, and did furnish, my brother and myself the necessary money to make proof. On the day that my brother and I were to prove up we gave our joint note to Uncle Jack for the sum of Eleven hundred dollars, and each of us received from him all of the money necessary to make final proof, One hundred dollars that was paid to Dwyer as locator's fees, aggregating in all something over [3704] Five hundred dollars each, the balance of the \$550 which we each borrowed was for our expenses in making the trip into the timber and filing fees. My uncle gave me the money to make final proof and also gave me the money, one hundred dollars to pay the locator, and I paid Mr. Dwyer this one hundred dollars, I think in the hallway in front of the land office, but it might have been in one of the offices in the building. My recollection is that I paid Dwyer the \$100 some little time before making proof.

My recollection is that the note that my brother and I gave to Jackson O'Keefe for eleven hundred dollars, as above stated, was due twelve months after date, and was dated about July 11th, 1904. On the way home from Lewiston that day Charley and Uncle Jack and myself had a talk about this timber land we had made proof on. Uncle Jack told us that he would like to have some security on the land so that he could handle the note. My recollection is that we were talking of giving a bond for a deed. The matter was taken up the next day at Asotin, Wash., and Uncle Jack paid me One hundred fifty (\$150) dollars and I executed what I understood was a bond for a deed to him for the 160 acres of timber land I had taken. It was my understanding that this bond for a deed was to secure my share of the \$1100 note, which was \$550, and the \$150 Uncle Jack let me have which could be repaid to him at any time before the note became due. My understanding was that I should have the benefit of any raise in the land over and above \$600 for a year or until the \$1100 note was due. We had been advised, that is my brother and I, that we could give a deed on the Receiver's receipt but we thought it would be safer to wait until we got title or received the U. S. patent. Some time after making proof I was notified that my patent was at the Land Office but was afterwards informed that it was held up for some reason. About July 1905 I was informed that I had given a deed to this land to my Uncle Jackson O'Keefe instead of a bond for a deed as I at first thought. I never, at any time, before making final proof, made any contract [3705] or

agreement with any person whomsoever, to sell or convey the land I acquired title to under this stone and timber entry, to any person or persons. I did know, however, that Jackson O'Keefe would give me \$150 more than the land cost me after I had acquired title to it. But I never made any such agreement. I was advised by him not to make any agreement for any sale of the land or any mortgage against the land, in fact to make no agreement about the land whatever until after I got a title to it. I never at any time had any talk with Kester, Kettenbach or Dwyer about the land other than the conversations with Dwyer I have above referred to. I don't know where Uncle Jack got the money, he let us have, to put into this timber land. I knew he was doing business at the Lewiston National Bank and supposed that he got it there.

EDGAR J. TAYLOR.

Subscribed and sworn to before me this 30th day November, 1906.

C. L. THOMPSON,
Notary Public.

State of Idaho,
County of Latah,—ss.

C. W. Taylor, being first duly sworn, deposes and says that he has read the affidavit of Edgar Taylor, his brother, and that affiant is the party mentioned in the foregoing affidavit as Charley Taylor. That all of the facts therein set forth relating to the acquisition and disposal of the Timber Claim of said Edgar Taylor are true and apply to the Timber Claim obtained by this affiant at the same time, except that

affiant always understood that the conveyance therein mentioned as a bond for a deed was in fact a deed.

C. W. TAYLOR.

Subscribed and sworn to before me this 14th day of Jan., 1907.

S. R. H. McGOWAN,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3706]

Defendants' Exhibit "H."

State of Washington,
County of Asotin,—ss.

David S. Bingham, first duly sworn, on his oath deposes and says:

I am a native-born citizen of the United States of America, and for sixteen years last past have been and now am a resident of Asotin County, the State of Washington; that I am well and personally acquainted with Jackson O'Keefe, and William Dwyer and George H. Kester and W. F. Kettenbach, defendants in an action pending in the District Court of the United States for the District of Idaho, Northern Division, and in which action the United States is plaintiff and in which action the defendants are charged with a conspiracy to defraud the United States with respect to entries of government lands made by Edgar Dammarell, Joseph H. Prentice, Charles W. Taylor and Edgar Taylor at the Lewiston, Idaho, Land Office, under the Timber and Stone Act, and which said cause is prosecuted upon an in-

dictment returned by the Federal Grand Jury at a term of said District Court holden in the City of Boise, Idaho, in July, A. D. 1905.

That I entered 160 acres of timber land at the Lewiston Land Office in April, 1904, under the Timber and Stone Act, made proof thereon about the middle of July, 1904, and sold and conveyed the same to the said Jackson O'Keefe on or about the latter part of August or first part of September, 1904.

The facts and circumstances of my acquiring the same and the sale thereof, are to the best of my recollection, about as follows: Sometime of the fall of 1903 Jackson O'Keefe and the above named Dammarell, Prentices and Taylor boys, went into the timber to locate on timber claims. Shortly after their return I met Mr. O'Keefe and asked him why he didn't let me know that they were going into the timber and told him that I had never used my right under the timber and stone act and that I would like to get [3707] a claim. He informed me that they had located on what is known as Reed's Creek in the Pierce City Country and also said that he had seen Ike Bingham's (my brothers) cabin and I told him I was well acquainted with that country, having mined, prospected and hunted there three different summers. He told me then to see one William Dwyer and maybe he could put me onto a claim. I afterwards had a talk with Dwyer and he located me. I got a filing in April, 1904. After I had filed I had a conversation with O'Keefe in which I asked him (O'Keefe) if he was investing in timber up there. He said yes, he was intending to buy a little; I asked

him what he was paying for a quarter section and he said: "I can't talk about the price, or I can't talk about buying until after you prove up." I got the money from Dwyer with which to make proof. For a time prior to and after I made my final proof I had been running a hotel and feed stable at Cloverland. Washington, and at the time I made my proof I had sufficient money on my person with which to make my final proof, but this money was a part, in fact, practically the entire capital which I used and needed to carry on my business. I had an opportunity to borrow the money from Mr. Dwyer to make the proof, so I borrowed the money from him and put it in my pocket with my other money. I then went to the land office and in making proof paid for the land out of the money in my pocket, so I can't say for certain whether I paid for it with the Dwyer money or the money which belonged in my business. I knew at the time that I made proof that I would have to pay Dwyer \$100.00 for locator's fees and I did not have sufficient money on hand to pay this sum in addition to the value of the land and I would have to borrow other money to use in carrying on my business so to place the loan all in one party I got the money from Mr. Dwyer. [3708]

About two weeks before I deeded to O'Keefe he was at Cloverland and asked me if I made it all right with my timber claim. I told him yes, I had made proof. He said, "Do you want to sell?" I said, "Are you buying?" He said, "Yes, I think I can do a little bunch of it together." I *ask* him what he was giving, and he said that he gave the other boys (mean-

ing the parties above named) \$150.00 more than the claims had cost them. I told him that I would have to see my wife about it. I spoke to her about O'Keefe's offer and she thought it was as well to sell for that as it would be to hold and try to handle it ourselves. O'Keefe came into the house shortly after and I told him I would accept his proposition. About two weeks afterward my wife and I signed the deed conveying the property to O'Keefe and he gave me a check for \$150. It was understood that he was to repay Dwyer the money that I owed him.

I further say that I never at any time before making final proof had any agreement or contract either directly or indirectly with said O'Keefe, Dwyer, Kettenbach or Kester or either of them, whereby I was to convey to either or any of them the lands I acquired by such timber and stone entry, nor did they or either or any of them up until the time I conveyed to O'Keefe have any interest in or claim or lien upon the said lands or any part or portion thereof.

DAVID S. BINGHAM.

Subscribed and sworn to before me this 30th day of January, 1907.

GEO. H. RUMMENS,
Notary Public for the State of Washington, Residing
at Asotin, Washington.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3709]

Defendants' Exhibit "I."

State of Washington,
County of Asotin,—ss.

Edgar H. Dammarell, being first duly sworn, on his oath says: That I am a citizen of the United States, and for the four years last past I have been and now am a resident of Asotin County the State of Washington; that I am the identical Edgar H. Dammarell who testified as a witness before the Federal Grand Jury which returned an indictment endorsed a true bill in the case now pending in the United States District Court for the District of Idaho, Northern Division, in which the United States is plaintiff and Jackson O'Keefe, George H. Kester, W. F. Kettenbach and William Dwyer are defendants, which indictment was returned at a term of said Court holden in the City of Boise, State of Idaho, in July, 1905, which said indictment charges the said defendants with conspiracy to defraud the United States with respect to entries made by himself, Charles W. Taylor, Edgar Taylor and Joseph H. Prentice at the Lewiston, Idaho, Land Office under the Timber and Stone act.

The facts concerning my application are as follows: In the spring of 1902 I resident at Pembina, North Dakota, and was in the employ of the Northern Pacific Railway Company; in April of that year a friend of mine by the name of T. L. Price contemplated taking a trip to the northwest in search of a milder climate for the benefit of his wife's health and I procured transportation from the railway company

and came west with him for a vacation trip. On this trip we came to Lewiston, Idaho, and discovered that a very great interest was taken by everybody we met in the White Pine timber [3710—1] lands of Northern Idaho. We concluded to investigate the matter with a view of procuring a claim for each of us if an opportunity offered. At Lewiston, Idaho, we were advised that unless we understood the business we were liable to be imposed upon by unscrupulous locators who would not hesitate to show us good timber and give us a description of worthless or valueless land. As we were inexperienced we determined that we would not take any risk and made no effort to acquire land at that time. On the same trip I made homestead application for 160 acres of land adjoining the irrigated land in Asotin County, Washington, known as Cloverland, which I afterward commuted. In the following fall I took up my actual residence in Asotin County, Washington, and became quite intimately acquainted with Jackson O'Keefe, having purchased from him thirty acres of land in Cloverland. Early in October, 1903, I was present at a conversation between Charles W. Taylor, a nephew of Jackson O'Keefe, and one Joseph H. Prentice, in which conversation Taylor told Prentice of an opportunity he, Taylor, and his brother Edgar Taylor, had to acquire 160 acres of land under the Timber and Stone Act. And that his uncle, O'Keefe, was going to loan them, the Taylor brothers, the money necessary to acquire the land. I made further inquiry of Taylor about the matter and determined to see Mr. O'Keefe and try and make arrangements with him for money

enough for me to take a claim also. I had confidence in O'Keefe's business ability and believes that any locator he would do business with would give us a square deal. I saw Mr. O'Keefe and made arrangements with him to borrow the necessary money to make proof and pay all expenses including the locator's fee and expenses in going upon the land. We computed up the expenses [3711—2] and costs and it amounted to about five hundred and fifty dollars. My recollection is that we left Lewiston, Idaho, on the trip to inspect the land on the 12th day of October, 1903. There were in the party the Taylor boys, Joseph Prentice, Jackson O'Keefe and myself. We went into the timber and met the locator, William Dwyer at what is called Brown's Cabin, near Pierce City, in the country known as the North Fork of the Clearwater River. When the locator showed us the land he took us all together over the land. We all understood that we could not get a filing upon this land at that time for the reason that the state of Idaho had a sixty day prior right after the opening of the land for settlement. We did file, however, sometime in the latter part of the following April, 1904. We formed in line something like a week before we were allowed to file. The suggestion was made by someone that it would be better to have our statements or applications all prepared to present to the officers of the Land Office when we reached their desk, and either the locator, Dwyer, or O'Keefe, I can't say positively which, said that he would look after the filing papers for our party. I understood that this was the plan followed by everybody in line before the

Land Office at this time, that is, each applicant had his necessary papers made out so that he would not detain the Land Officers and those in line any great length of time. The time fixed by the officers of the land office for my final proof was July 12th, 1904, but on account of the absence of my naturalization papers, I being foreign born, my proof was delayed until July 25th, 1904, at which latter date I paid to the Land Office the purchase price four hundred dollars and the costs eleven [3712—3] dollars and twenty-five cents. On the 12th day of July, 1904, I gave my note to Jackson O'Keefe for \$550.00, due one year after date, and he advanced me, I think, about \$510.00 at that time, \$100.00 of which I paid to Dwyer, the locator, and the balance I kept until my proof was accepted. At the time that I made final proof I had come to the conclusion that it would be better for me to sell the claim for what I could get for it and get out of debt and have as my own anything over what it had cost me. I so stated to Mr. O'Keefe and he told me that he would give me \$700.00 for it, or give me \$150.00 and turn over my note. I told him I would let him know the next day, which I did, and accepted his proposition, and made him a deed. I would say, however, that during the negotiation Mr. O'Keefe told me that if at any time during the next year thereafter I would reimburse him the sum of \$700.00 with interest at 8% he would reconvey the land to me.

I never at any time before making final proof made any contract or agreement with any person whomsoever to sell or convey the land I acquired title to

under the Timber and Stone entry to any person or persons whomsoever, nor did I ever at any time have any talk with Kester or Kettenbach about the land nor with William Dwyer other than the conversation with him as a locator or at the time he located us. I further say that the foregoing statement contains in substance all that I testified to before the Federal Grand Jury at the foregoing hearing, and all statements relating to this transaction that I made to District Attorney Ruick.

EDGAR H. DAMMARELL.

Subscribed and sworn to before me this 22d day of January, [3713—4] 1907.

GEO. H. RUMMENS,
Notary Public for the State of Washington, Residing
at Asotin, Washington.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3714—5]

Defendants' Exhibit "J."

Blank piece of paper. [3715—6]

Defendants' Exhibit "K."

The following is the memorandum of the expenses of trip into timber beyond Pierce City:

Railroad fare two ways	\$8.75
and \$5.00	\$13.75
Meals at Carrs Farm.....	6.00
T. B. Reed bill, Pierce, Idaho..	17.00
John Lane Hotel bill, Pierce, Idaho	43.00
Payne & Wellmen, Orofino, Ho- tel bill & conveyances.....	76.00
<hr/>	
Total.....	\$155.75

Miss Elizabeth Kettenbach:

Your share of the above account is one-seventh or \$22.25.

Rec'd Pmt.

GEO. H. KESTER.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3716—7]

Defendants' Exhibit "L."

Department of the Interior,

"P"

30070

General Land Office

JTM

Address only the

Commissioner of the General Land Office.

Washington, D. C., April 13, 1908.

In re delivery of patent.

Miss Elizabeth Kettenbach,

Lewiston, Idaho.

Madam:

Referring to your letter of July 18, 1907, requesting delivery of patent issued in connection with your timber and stone entry embracing lands in the Lewiston, Idaho, land district, which is held in the local land office in accordance with departmental instructions I now have to advise you that under date of April 8, 1908, the Register and Receiver were directed to deliver all patents suspended in accordance with said departmental instructions.

Very respectfully,

FRED DENNETT,

Commissioner.

DMC.

GVF.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3717—8]

Defendants' Exhibit "M."

Original.

No. 846.

**REAL AND PERSONAL PROPERTY TAX
RECEIPT.**

Collector's Office.

Book 2, Page 123, Line 2.

Lewiston, Nez Perce County, Idaho,

Dec. 9, 1905.

RECEIVED from Elizabeth Kettenbach.

Assessed to same, \$21.56, on account of State,
County, School and Municipal Taxes for the
year 1905 upon the following described prop-
erty, to wit:

DESCRIPTION OF REAL PROPERTY.

	Sec.	Tp.	Rng.		Acres.	Value.
	or Lot.	or Lot.	or Blk.			
W. 1/2 NE. 1/4, W. 1/2 SE. 1/4	13	38	5 E.	160	880	
(1905)						

In County\$21.56

Total.....\$21.56

Total valuation in County—\$880.

W. E. DAGGETT,

Collector.

Gifford,

Deputy.

Original. No. 2366.

REAL AND PERSONAL PROPERTY TAX RECEIPT.

Collector's Office.

Book 2, Page 113, Line 12.

Lewiston, Nez Perce County, Idaho,

Dec. 19, 1906.

RECEIVED from Idaho Trust Company.

Assessed to Elizabeth Kettenbach, \$25.44, on account of State, County, School and Municipal Taxes for the year 1906 upon the following described property, to wit: [3718—9]

	Sec. or Lot.	Tp. or Lot.	Rng. or Blk.	Acres.	Value.
W. 1/2 NE. 1/4, W. 1/2 SE. 1/4	13	38	5 E.	160	800
(1906)					

In County\$19.04

Shoshone Redemption 6.40

Total.....\$25.44

Total valuation in County—\$800.

W. E. DAGGETT,

Collector.

Gifford,

Deputy.

Original.

No. 1664.

REAL AND PERSONAL PROPERTY TAX RECEIPT.

Collector's Office.

Book 2, Page 132, Line 1.

Lewiston, Nez Perce County, Idaho,

Dec. 14, 1907.

RECEIVED from Idaho Trust Company.

Assessed to Elizabeth Kettenbach, \$29.70, on account of State, County, School and Municipal Taxes for the year 1907 upon the following described property, to wit:

DESCRIPTION OF REAL PROPERTY.

Sec. or Lot.	Tp. or Lot.	Rng. or Blk.	Aces.	Value.
-----------------	----------------	-----------------	-------	--------

T.

W. 1/2	NE. 1/4,	W. 1/2	SE. 1/4	13	38	5 E.	160	887
(1907)								

In County	\$20.84
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Special School District No. 94...	4.43
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Shoshone Redemption	4.43
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Total.....	29.70
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J. M. WILLIAMS,

Collector.

Gwin,

Deputy.

Original.

No. 2569.

REAL AND PERSONAL PROPERTY TAX RECEIPT.

Collector's Office.

Book 2, Page 117, Line 4.

Lewiston, Nez Perce County, Idaho,

Dec. 24, 1908.

RECEIVED from Elizabeth Kettenbach by F. W. K.
Assessed to Elizabeth Kettenbach \$33.82 on account of State, County, School and Municipal Taxes for the year 1908 upon the following described property, to wit:

DESCRIPTION OF REAL PROPERTY.

	Sec. or Lot.	Tp. or Lot.	Rng. or Blk.	Acres.	Value.
W. 1/2 NE. 1/4, W. 1/2 SE. 1/4	13	38	5 E.	160	1080
(1908)					

In County\$21.60

Special Tax Road District No... 4.44

Special Tax School District No.

94 2.70

Shoshone Redemption 5.08

Total.....\$33.82

Total valuation in County—\$1080.

J. M. WILLIAMS,

Collector.

Gwin,

Deputy.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3720—11]

4154 *The United States of America*

Defendants' Exhibit "N."

IDAHO TRUST COMPANY.

Lewiston, Idaho, Dec. 26, 1908. \$33.82.

No. 2569.

MEMORANDUM CHECK.

For Tax.

Charge—ELIZABETH KETTENBACH.

Stamped: Paid December 28, 1908, Idaho Trust Company, Lewiston, Idaho.

Blank Memorandum Check of Idaho Trust Company.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk.

IDAHO TRUST COMPANY.

Lewiston, Idaho, Dec. 20, 1906. \$25.44.

NO. ———

MEMORANDUM CHECK.

For Taxes.

Charge—ELIZABETH KETTENBACH.

Stamped: Paid Dec. 21, 1906, Idaho Trust Company, Lewiston, Idaho.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk.

IDAHO TRUST COMPANY.

Lewiston, Idaho, Dec. 14, 1907. \$29.70.

No. 1664.

MEMORANDUM CHECK.

For Tax.

Charge—ELIZABETH KETTENBACH.

[3721—12]

Stamped: Paid Dec. 16, 1907, Idaho Trust Company, Lewiston, Idaho.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3722—13]

Defendants' Exhibit "O."

Please Examine and Report Without Delay.

Lewiston, Idaho, July 1, 1904.

Miss Lizzie Kettenbach,

Lewiston, Idaho.

In Account With IDAHO TRUST COMPANY.

4. Checks Cancel'd and	June	1. Balance	223.80
Ret'd. 18.		7. Salary Warrant..	50.00
July 1. Balance		22. Bal. J. W. Billups	
		Int. Coupon....	1.65
		275.45	275.45
	July	1. Balance	257.45

Please Examine and Report Without Delay.

Lewiston, Idaho, Aug. 2, 1904.

Miss Lizzie Kettenbach,

In Account With IDAHO TRUST COMPANY.

4. Checks Cancel'd and	July	1. Balance	257.45
Ret'd. 38.		6. Salary Warrant...	50.
Balance		30. ½ Billups Loan &	
		Int.	1034.16
		1341.61	1341.61
	Aug. 2.	Balance	1303.61

Please Examine and Report Without Delay.

Lewiston, Idaho, Nov. 3, 1904.

Lizzie Kettenbach,

In Account With IDAHO TRUST COMPANY.

[3723—14]

7. Checks Cancel'd and	Sept.	1. Balance	1303.61
Ret'd. 57.50		23. C. A. Horne Loan	
Nov. 3. Balance		& Int.....	312.50
	Oct.	1. Salary Warrant..	50.
		28. Int. on Note Edna	
		McGrane ...	310.65
		1976.76	1976.76
	Nov.	3. Balance	1919.26

Please Examine and Report Without Delay.

Lewiston, Idaho, Dec. 6, 1904.

Miss Elizabeth Kettenbach,

In Account With IDAHO TRUST COMPANY.

Nov. 28. Note of Otto Ket-	Nov. 3. Balance	1919.26
tenbach	12. Salary Warrant..	50.
1200.	6. " "	50.
8. Checks Cancel'd and		
Ret'd.		601.90
Dec. 6. Balance		217.36
		<hr/>
		2019.26
	Dec. 6. Balance	217.36
		<hr/>
		2019.26

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3724—15]

Defendants' Exhibit "R."

NO. ———

Lewiston, Idaho, Sept. 9, 1907.

On Demand Pay to the order of LEWISTON NATIONAL BANK, \$1,600.00, Sixteen hundred and 00/100 Dollars,

Value Received, and Charge to the Account of
To F. J. Davies,

Spokane, Wash., Peyton Block.

E. M. BROWN,

Agt.

White deed.

Stamped: Paid, Spokane & Eastern Trust Company, Spokane, Wash., Sep. 12, 1907.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3725—15½]

Defendants' Exhibit "S."

NO. ———

Lewiston, Idaho, Sept. 9, 1907.

On Demand Pay to the order of LEWISTON NATIONAL BANK, \$1,200.00, Twelve hundred and 00/100 Dollars,

Value Received, and Charge to the Account of
To F. J. Davies,

Spokane, Wash.

c/o Peyton Block

E. M. BROWN,

Agt.

White deed.

Stamped: Paid, with stamp of Spokane & Eastern Trust Co., Spokane, Wash., Sep. 12, 1907.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3726—16]

Defendants' Exhibit "U."

NO. ———

Lewiston, Idaho, June 7, 1907.

At Sight Pay to the order of LEWISTON NATIONAL BANK, \$8,650.00, Eighty-six hundred fifty 00/100 Dollars,

Value Received, and Charge to the Account of
To F. J. Davies,

Spokane,

Peyton Block.

E. M. BROWN,

Agt.

Stamped: Paid, with stamp of Spokane & East-

ern Trust Company, Spokane, Washington, June 19, 1907.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3727—17]

Defendants' Exhibit "W."

Customers' Draft.

LEWISTON NATIONAL BANK.

46158

Lewiston, Idaho, July 9th, 1907.

On Demand Pay to the order of Frank W. Kettenbach, \$800.00, Eight hundred and 00/100 Dollars.

Value received and charged to account of
To F. J. Davies,
Spokane, Wash.

E. M. BROWN,
Agt.

[Endorsed]: Frank W. Kettenbach.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3728—18]

Defendants' Exhibit "Y."

State of Idaho,
County of Nez Perce,—ss.

Mary A. Loney, being duly sworn, deposes and says: That she is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding express or implied, that said entry was be-

ing made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company, or corporation. That said entry was made, and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of her belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuant of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in nowise nor in anyway had any interest in or to said lands or the title thereto, directly or indirectly, prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to wit: [3729—19] Northeast quarter of Northeast quarter of Section 18, West half of Northwest quarter and Northwest quarter of Southwest quarter of Section 17 in Township 36, North of Range 5 East, B. M.

MARY A. LONEY.

Subscribed and sworn to before me, this 28th day of Feby., A. D. 1907.

WILLIAM J. TODD,

Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3730—20]

Defendants' Exhibit "Z."

State of Idaho,

County of Nez Perce,—ss.

James T. Jolly, being duly sworn, deposes and says: That he is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company or corporation. That said entry was made and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in no wise nor in any way had any interest in or to said lands or the title thereto directly or indirectly prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and

the acquisition of title by this affiant from the government. [3731—21] That the lands referred to are described as follows, to-wit: South half Northeast quarter, East half Southeast quarter of Section 4, Township 36 N. Range 5 E., B. M.

JAMES T. JOLLY.

Subscribed and sworn to before me this 22d day of Dec., 1906.

WILLIAM J. TODD,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3732—22]

Defendants' Exhibit "A-1."

State of Idaho,
County of Nez Perce,—ss.

Effie A. Jolly, being duly sworn, deposes and says: That she is the identical party who made entry of the lands hereinafter described under the Stone and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company, or corporation. That said entry was made, and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of her belief the same did not and does not contain any valuable

deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in nowise nor in any way had any interest in or to said lands or the title thereto, directly or indirectly, prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands referred to are described as follows, to-wit: The East half of Northwest quarter and North half of Northeast quarter of Section 17 in Township 36 North, [3733—23] Range 5 East, B. M.

EFFIE A. JOLLY.

Subscribed and sworn to before me, this 28th day of Feby., A. D. 1907.

WILLIAM J. TODD,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3734—24]

Defendants' Exhibit "A-2."

State of Idaho,
County of Nez Perce,—ss.

Chas. E. Loney, being duly sworn, deposes and says: That he is the identical party who made entry of the lands hereinafter described under the Stone

and Timber Act providing for such entry. That at no time prior to the entry or prior to the final proof did the affiant have any agreement or understanding, express or implied, that said entry was being made or said title being acquired for the benefit or advantage directly or indirectly, of any person, company or corporation. That said entry was made and said title acquired solely for the exclusive use and benefit of the affiant. That prior to the entry affiant had made personal examination of said land and here makes oath that to the best of his belief the same did not and does not contain any valuable deposit of gold, silver, cinnabar, copper or coal and was not mineral land under the terms of said Act. That the sale now being negotiated is not the result nor made in pursuance of any agreement or understanding, express or implied, had at any time prior to final proof upon the hereinbelow described lands and that the said purchaser in no wise nor in any way had any interest in or to said lands or the title thereto directly or indirectly prior to the negotiations for the present sale and that such negotiations were commenced subsequent to the final proof and the acquisition of title by this affiant from the government. That the lands [3735—25] referred to are described as follows, to wit:

Lot 4, SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 4, Tp. 36, N., R. 5 E., B. M.

CHAS. E. LONEY.

Subscribed and sworn to before me this 21st day of Dec., 1906.

WILLIAM J. TODD,
Notary Public.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3736—26]

Defendants' Exhibit "5-a."

LIST OF HOMESTEAD FILINGS MADE IN LEWISTON LAND OFFICE, FEBRUARY 24th, 1904.

Name.	Address.	Description of Filing.
Ferdinand Roos, Jr.,	Pierce, Idaho.	E. $\frac{1}{2}$ SW. $\frac{1}{4}$, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 33, Tp. 38 N. R. 5 E. B. M., 160 A.
Sylvester G. Cartis,	Pierce, Idaho.	W. $\frac{1}{2}$ NE. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 33, Tp. 38 N. R. 5 E. B. M., 160 A.
Frank A. McConnell,	Pierce, Idaho.	SW. $\frac{1}{4}$ Sec. 20, Tp. 38 N. R. 6 E. B. M., 160 A.
Charles W. Kays,	Pierce, Idaho.	SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 26; S. $\frac{1}{2}$ NW. $\frac{1}{4}$, SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 25, Tp. 40 N. R. 5 E. B. M., 160 A.
Charles E. Berry,	Pierce, Idaho.	W. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 33; E. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 32, Tp. 38 N. R. 5 E. B. M., 160 A.
Fred H. McConnell,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 30, Tp. 38 N. R. 6 E. B. M., 160 A.
Grover C. Kays,	Pierce, Idaho.	E. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 33; W. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 34, Tp. 38 N. R. 5 E. B. M., 160 A.
Roscoe M. Sanders,	Pierce, Idaho.	SE. $\frac{1}{4}$ Sec. 18, Tp. 38 N. R. 6 E. B. M., 160 A.
Thomas B. Reed,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 17, Tp. 38 N. R. 6 E. B. M., 160 A.
Simon P. Fitzgerald,	Pierce, Idaho.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 10, Tp. 38 N. R. 6 E. B. M., 120 A.
George G. James,	Pierce, Idaho.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 9; N. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 8, Tp. 28 N. R. 6 E. B. M., 160.
Charles E. Colwell,	Pierce, Idaho.	NE. $\frac{1}{4}$ sec. 18, Tp. 38 N. R. 6 E. B. M., 160 A.
John C. Baker,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 31, Tp. 38 N. R. 6 E. B. M., 160 A.

Name.	Address.	Description of Filing.
William H. Kincaid,	Pierce, Idaho.	N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 23; S. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 14, Tp. 38 N. R. 5 E. B. M., 160 A.
Clarence M. Hooper,	Pierce, Idaho,	S. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 14; N. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 23, Tp. 28 N. R. 5 E. B. M., 160.
L. Grace Rogers,	Pierce, Idaho,	SW. $\frac{1}{4}$ SW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 12, Tp. 38 N. R. 5 E. B. M.
Carl W. Rogers,	Pierce, Idaho,	NE. $\frac{1}{4}$ Sec. 12, Tp. 38 N. R. 5 E. B. M., 160.
[3737—27]		
Jacob J. Eikum,	Pierce, Idaho,	NE. $\frac{1}{4}$ Sec. 21, Tp. 38 N. R. 6 E. B. M., 160 A.
Charles E. Rigler,	Pierce, Idaho.	S. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 24; N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 25, Tp. 38 N. R. 5 E. B. M., 160.
Joseph W. Lane,	Pierce, Idaho.	SE. $\frac{1}{4}$ Sec. 7, Tp. 38 N. R. 6 E. B. M.
Anna Clyde,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 22, Tp. 38 N. R. 5 E. B. M.
John A. Keever,	Pierce, Idaho.	SE. $\frac{1}{4}$ Sec. 25, Tp. 38 N. R. 5 E. B. M.
Charles F. Shumaker,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 29, Tp. 38 N. R. 6 E. B. M.
Hugh Dowling,	Pierce, Idaho.	W. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 28; E. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 28, Tp. 38 N. R. 5 E. B. M., 160.
Grace B. Wilson,	Genesee, Idaho.	SE. $\frac{1}{4}$ Sec. 8, Tp. 38 N. R. 5 E. B. M.
Walter Williams,	Riparia, Wash.	N. $\frac{1}{2}$ NE. $\frac{1}{4}$, N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 15, Tp. 38 N. R. 6 E. B. M., 160.
Albert J. Flood,	Oakesdale, Wash.	S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 15, Tp. 38 N. R. 6 E. B. M., 160.
William R. Lawrence,	Oakesdale, Wash.	N. $\frac{1}{2}$ SE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 15, Tp. 38 N. R. 6 E. B. M., 160.
Harley Cardwell,	Pierce, Idaho.	W. $\frac{1}{2}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 28, Tp. 40 N. R. 6 E. B. M., 160.

Name.	Address.	Description of Filing.
George W. Miller,	Genesee, Idaho.	NE. $\frac{1}{4}$ Sec. 24, Tp. 38 N. R. 5 E. B. M.
Joseph M. Allphin,	Colfax, Wash.	E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 20; N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 29, Tp. 40 N. R. 5 E. B. M., 160.
Hans Bugge,	Pierce, Idaho.	NW. $\frac{1}{4}$ Sec. 12, Tp. 38 N. R. 5 E. B. M., 160 A.
Jason E. Hammond,	Pierce, Idaho.	S. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 24, Tp. 38 N. R. 5 E. B. M., 160.
Charles W. Hanson,	Pierce, Idaho.	N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 4; NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 9, Tp. 38 N. R. 5 E. B. M., 160 A.
Albert Anderson,	Pierce, Idaho.	SE. $\frac{1}{4}$ Sec. 30, Tp. 38 N. R. 6 E. B. M., 160 A.
Gustav Forest,	Orofino, Idaho.	SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 5; SW. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 4; NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 8; NW. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 9, Tp. 38 N. R. 5 E. B. M.
Susan C. Comstock,	Orofino, Ida.	NE. $\frac{1}{4}$ Sec. 29, Tp. 39 N. R. 5 E. B. M., 160.
Charles B. Thornburg,	Pierce, Ida.	NW. $\frac{1}{4}$ Sec. 29, Tp. 38 N. R. 6 E. B. M., 160 A.
Marshall Cardwell,	Pierce, Idaho.	SW. $\frac{1}{4}$ Sec. 32, Tp. 38 N. R. 5 E. B. M., 160 A.
[3738—28]		
Carl Johnson,	Orofino, Idaho.	W. $\frac{1}{2}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 20, Tp. 39 N. R. 5 E. B. M., 160.
John M. Beames,	Pierce, Ida.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 32, Tp. 38 N. R. 5 E. B. M., 160.
James Barnes,	Pierce, Ida.	SE. $\frac{1}{4}$ Sec. 32, Tp. 38 N. R. 5 E. B. M., 160 A.
Charles V. Vogelmann,	Garfield, Wash.	SE. $\frac{1}{4}$ sec. 7, Tp. 39 N. R. 5 E. B. M., 160 A.
John E. Nelson,	Pierce, Ida.	N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 23, Tp. 39 N. R. 5 E. B. M., 80 A.
William J. Brown,	Oakesdale, Wash.	NW. $\frac{1}{4}$ Sec. 21, Tp. 38 N. R. 6 E. B. M., 160 A.

Name.	Address.	Description of Filing.
Mike D. Glover,	Pierce, Idaho.	Lots 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 4, Tp. 38 N. R. 5 E. B. M.
Thomas J. Root,	Orofino, Ida.	E. $\frac{1}{2}$ NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 27; NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 28, Tp. 40 N. R. 5 E. B. M., 160.
Albert P. Schnett,	Grangeville, Ida.	NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 21; W. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 27, Tp. 40 N. R. 5 E. B. M., 160 A.
James A. Carr,	Lucile, Ida.	N. $\frac{1}{2}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 31, Tp. 26 N. R. 1 E. B. M.
Thomas L. Harris,	Orofino, Ida.	S. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 25; SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 26, Tp. 37 N. R. 3 E. B. M., 160.
Wellington S. Harris,	Pierce, Ida.	SE. $\frac{1}{4}$ Sec. 7, Tp. 39 N. R. 6 E. B. M.
Winnifred M. Lane,	Pierce, Idaho.	NE. $\frac{1}{4}$ Sec. 21, Tp. 38 N. R. 5 E. B. M.
Harvey J. Steffey,	Pierce, Ida.	Lots 3, 4, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 7 T. 39 N. R. 6 E. B. M., 119.02.
Anton Wohlen,	Pierce, Ida.	E. $\frac{1}{2}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 13, Tp. 38 N. R. 5 E. B. M., 160 A.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3739—29]

Defendants' Exhibit "C-1."

LAND DEPARTMENT.

State of Idaho.

Norman Jackson,
Chief Clerk.

State Board of Land Commissioners.

John T. Morrison,
Governor and Chairman.John A. Bagley,
Atty. General and Secretary.Will H. Gibson,
Secretary of State.May L. Scott,
Superintendent of Public In-
struction.

Boise, Feb. 5, 1904.

M. L. Goldsmith,
Spalding, Idaho.

Dear Sir:—

Your report to the State Land Board on timber sales in the Palouse country has created considerable interest among the members and they are greatly obliged to you for the information furnished. I will talk with you more in detail concerning the matter when I come North again.

I have considered the matters mentioned in your letter concerning the proposed selections in the six townships soon to be thrown open. I expect to see you soon in regard to this.

I am in receipt of a letter from Mr. Jansen who is connected with the Mining Exchange at Lewiston, in which he states that he is well acquainted with those townships and desires employment with the State when we are ready to make selections. I wish you would quietly learn what you can concerning his responsibility and ability.

Will also ask you to visit the Lewiston Land Office and make a new list of the lieu land selections which you proposed a short time ago. I think it is

possible that some of the land may have been taken by this time. Your report on [3740—30] the same was so favorable that I am sure the Board will wish to make the filing as soon as we receive a corrected list.

Yours truly,
NORMAN JACKSON,

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3741—31]

Defendants' Exhibit "D-1."

E. J. T.

DEPARTMENT OF THE INTERIOR.
GENERAL LAND OFFICE.

Spokane, Wn., March 12, 1907.

Mr. M. L. Goldsmith,
Spalding, Idaho.

Sir:—

Your two letters noted. I have just returned from the east, and consequently could not give the matter attention. Will leave at once for Boise and will look up the papers referred to by you. You can secure them at any time by calling on me at the land office, Boise, Idaho. In the event that you do not come to Boise while I am there,—say within the next ten days—I will forward the papers to you unless it is absolutely necessary to retain some of them for use in the trials.

Very respectfully,
F. M. GOODWIN,
Chief Field Division, G. L. O.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3742—32]

Defendants' Exhibit "E-1."

LAND DEPARTMENT.

State of Idaho.

Norman Jackson,

Chief Clerk.

State Board of Land Commissioners.

John T. Morrison,

Governor and Chairman.

John A. Bagley,

Atty. General and Secretary.

Will H. Gibson,

Secretary of State.

May L. Scott,

Superintendent of Public Instruction.

Boise, Idaho, March 10, 1904.

M. L. Goldsmith,

Spaulding, Idaho.

Dear Sir:—

I have been unable to get the ear of the State Land Board in regard to the proposed selections in the Pierce City district until late yesterday evening.

After a somewhat full discussion of the matter in all its phases, the members were of the opinion that we should pursue the following course.

That you take a party of reliable men and make a general cruise over as much of the territory as possible, so that you can tell the localities in which the best timber is located, then file or offer filing on as much of it as you deem desirable.

The Board feels that on account of the depth of the snow, accurate cruising would not be possible, and prefers to file on the lands that bogus homesteaders have applied for.

The members feel that the timber companies have

thoroughly cruised the section and that the claims on which filing have been made are the only ones worth having, outside of that covered by N. P. script.

As for the land covered by Northern Pacific script, it was thought advisable to offer filing on all of it not claimed by bona fide settlers. It was thought that a list of bona fide settlers on both clases of land could be obtained without a personal visit to their cabins. It was thought that the non-mineral affidavits must be secured from the parties who have previously been over the township, as on account of the deep snow no evidence of that character could be obtained on this trip.

Wire me whether or not you agree with the conclusions of the Board, wording your telegram so that outsiders will not understand its meaning.

I do not think Mr. Hitt would be strong enough for such a trip, but we have a Mr. Lafferty here who would answer the purpose and is at your service if you desire him. If but one party is desirable, wire me whether or not you wish me to come up before you start out. The Board is desirous that all members of the party shall be strictly reliable.

I am billed to conduct a state land sale at Albion in Cassia County on the 15th. It is possible to arrange with someone else to conduct the sale, but prefer to be there myself. If you want me to come to Lewiston now, will come.

Please wire me in regard to *these* matter, so [3743—33] that I can make my plans.

Yours truly,

NORMAN JACKSON.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3744—34]

Defendants' Exhibit "F-1."

LAND DEPARTMENT.

State of Idaho.

Norman Jackson,
Chief Clerk.

State Board of Land Commissioners.

John T. Morrison,
Governor and Chairman.

John A. Bagley,
Atty. General and Secretary.

Will H. Gibson,
Secretary of State.

May L. Scott,
Superintendent of Public In-
struction.

Boise, 2/21/04.

M. L. Goldsmith,
Spalding, Idaho.

Dear Sir:

I learned of the N. P. effort to knock the state out of its prior right the morning you left and wired Heyburn what was up. He saw the Commissioner and wired back that we will be given our 60 days O. K. As soon as I can confer with the board will write you about making preparations. I got a set of plats of Joe, and he will let you have two more sets.

Yours,

NORMAN JACKSON.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3745—35]

Defendants' Exhibit "G-1."

LAND DEPARTMENT.

State of Idaho.

Norman Jackson,
Chief Clerk.

State Board of Land Commissioners.

John T. Morrison,

Governor and Chairman.

John A. Bagley,

Atty. General and Secretary.

Will H. Gibson,

Secretary of State.

May L. Scott,

Superintendent of Public In-
struction.

Boise, Idaho, June 3, 1904.

Mr. M. L. Goldsmith,
Spaulding Idaho.

Dear Sir:—

According to a notice from the land office, the state has until June 21, 1904, to make its filings in T. 29 N., R. 1 W, T. 40 N., R. 4 W., T. 39 N., R. 2 E and T. 39 N., R. 4 E. I wish you would advise me what steps you think should be taken by the state to determine what selection should be made.

Please advise me whether or not you can attend to any of the work. Will be pleased to receive all the information you can send, especially in regard to the probable amount that you think can be selected in the different townships; which ones, if any, it would pay to investigate; number of men needed in the work, etc. Also, whether you think I should come up and confer with you.

Trusting I may hear from you soon, I remain,

Yours truly,

Per/P.

NORMAN JACKSON.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3746—36]

Defendants' Exhibit "J-1."

Duplicate—To be Retained by the Past Noble Grand.

CERTIFICATE OF PAST NOBLE GRAND.

Hall of Clarkston Rebekah Lodge No. 125 I. O. O. F.

July 4th, 1901.

TO THE REBEKAH ASSEMBLY OF WASHINGTON, I. O. O. F.:

You are hereby respectfully informed that our worthy sister Mrs. Kittie E. Dwyer has performed the services required to constitute her a Past Noble Grand, in Clarkston Rebekah Lodge No. 125 I. O. O. F., her term of service as Noble Grand having expired on the 30 day of June, 1901.

Yours in F., L. and T.,

NELLIE S. RAMSEY,

Secretary.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3747—37]

Defendants' Exhibit "K-1."**LIST OF T. & S. FILINGS MADE IN LEWISTON LAND OFFICE, APRIL 25th, 1904.**

Name.	Address.	Description of Filing.
Jackson O'Keefe,	Cloverland, Wash.	W. $\frac{1}{2}$ SE. $\frac{1}{4}$, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 23, T. 38 N. R. 5 E. B. M.
Chas. W. Taylor,	Cloverland, Wash.	Lots 1, 2, E. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 30, T. 38 N. R. 6 E. B. M.
Joseph H. Prentice,	Cloverland, Wash.	Lots 1, 2, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 18, T. 38 N. R. 6 E. B. M.
Edgar J. Taylor,	Cloverland, Wash.	Lots 3, 4, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 18, T. 38 N. R. 6 E. B. M.
Edgar H. Dammarell,	Cloverland, Wash.	NE. $\frac{1}{4}$ Sec. 19, T. 38 N. R. 6 E. B. M.
Geo. H. Kester,	Lewiston, Ida.	N. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 30; SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 19, T. 39 N. R. 5 E. B. M.
Eugene H. Hopper,	Clarkston, Wash.	W. $\frac{1}{2}$ W. $\frac{1}{2}$ Sec. 13, T. 38 N. R. 5 E. B. M.
Edith A. Hopper,	Clarkston, Wash.	E. $\frac{1}{2}$ W. $\frac{1}{2}$ Sec. 13, T. 38 N. R. 5 E. B. M.
Guy L. Wilson,	Clarkston, Wash.	Lots 3, 4, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 19, T. 39 N. R. 5 E. B. M.
Edna P. Kester,	Lewiston, Ida.	N. $\frac{1}{2}$ N. $\frac{1}{2}$ Sec. 14, T. 38 N. R. 5 E. B. M.
Frances A. Justice,	Clarkston, Wash.	Lots 3, 4, E. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 19, T. 38 N. R. 6 E. B. M.
Fred E. Justice,	Lewiston, Ida.	E. $\frac{1}{2}$ E. $\frac{1}{2}$ Sec. 20, T. 38 N. R. 6 E. B. M.
Elizabeth Kettenbach,	Lewiston, Ida.	W. $\frac{1}{2}$ E. $\frac{1}{2}$ Sec. 13, T. 38 N. R. 5 E. B. M.
Elizabeth White,	Lewiston, Ida.	S. $\frac{1}{2}$ N. $\frac{1}{2}$ Sec. 23, T. 38 N. R. 5 E. B. M.
William J. White,	Lewiston, Ida.	S. $\frac{1}{2}$ N. $\frac{1}{2}$ Sec. 14, T. 38 N. R. 5 E. B. M.
Mamie P. White,	Lewiston, Ida.	N. $\frac{1}{2}$ S. $\frac{1}{2}$ Sec. 14, T. 38 N. R. 5 E. B. M.
Martha E. Hallett,	Lewiston, Ida.	Lots 1, 2, E. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 19, T. 38 N. R. 6 E. B. M.
Daniel W. Greenburg,	Lewiston, Ida.	SW. $\frac{1}{4}$ Sec. 17, T. 39 N. R. 5 E. B. M.
David S. Bingham,	Cloverland, Wash.	SE. $\frac{1}{4}$ Sec. 17, T. 39 N. R. 5 E. B. M.
Albert Anderson,	Pierce, Ida.	SW. $\frac{1}{4}$ Sec. 29, T. 38 N. R. 6 E. B. M.
Walter E. Daggett,	Southwick, Ida.	Lots 2, 3, 7, 8, 9, Sec. 5, T. 40 N. R. 5 E. B. M.
John R. McConnell,	Moscow, Ida.	E. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 21; N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 28, T. 38 N. R. 6 E. B. M.

Name.	Address.	Description of Filing.
Warren Lawrence,	Nezperce, Ida.	E. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 11, T. 38 N. R. 6 E. B. M.
Hattie Rowland,	Orofino, Ida.	SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, NE. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 15, T. 38 N. R. 5 E. B. M.
William McMillan,	Orofino, Ida.	SE. $\frac{1}{4}$ Sec. 21, T. 39 N. R. 5 E. B. M.
James E. Hood,	Spokane, Wash.	Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 2, T. 37 N. R. 4 E. B. M.
John M. McLellan,	Cut Bank, Mont.	SW. $\frac{1}{4}$ Sec. 1, T. 37 N. R. 4 E. B. M.
Frank W. Cadwell,	Spokane, Wash.	NE. $\frac{1}{4}$ Sec. 34, T. 38 N. R. 6 E. B. M.
Charles B. Crane,	Spokane, Wash.	NW. $\frac{1}{4}$ Sec. 12, T. 37 N. R. 5 E. B. M.
Nathan A. Egbert,	Springfield, Mass.	SW. $\frac{1}{4}$ Sec. 34, T. 38 N. R. 6 E. B. M.
Dudley J. Gallagher,	Spokane, Wash.	SW. $\frac{1}{4}$ Sec. 35, T. 38 N. R. 6 E. B. M.
Ernest I. Le Boutillier,	Minneapolis, Minn.	NW. $\frac{1}{4}$ Sec. 34, T. 38 N. R. 6 E. B. M.
George W. Reed,	Mt. Vernon, Wash.	Lots 3, 4, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 5, T. 37 N. R. 5 E. B. M.
Dennie J. Grant,	Seattle, Wash.	Lots 3, 4, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 30, T. 38 N. R. 5 E. B. M.
Otto Green,	Leavenworth, Wash.	Lots 1, 2, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 31, T. 38 N. R. 5 E. B. M.
Frank F. Finks,	Waco, Texas.	SE. $\frac{1}{4}$ Sec. 34, T. 38 N. R. 6 E. B. M.
Edward J. Broderick,	Seattle, Wash.	N. $\frac{1}{2}$ SE. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 5, T. 37 N. R. 5 E. B. M.
Fred W. Crane,	Spokane, Wash.	NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 12, T. 37 N. R. 5 E. B. M.
William W. Felter,	Brawley, Cal.	SE. $\frac{1}{4}$ SW. $\frac{1}{4}$, Sec. 26, T. 39 N. R. 5 E. B. M.
Sidney Eberle,	Moscow, Ida.	NW. $\frac{1}{4}$ Sec. 32, T. 38 N. R. 6 E. B. M.
Edward Kitts,	Moscow, Ida.	W. $\frac{1}{2}$ SE. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$ Sec. 25, T. 40 N. R. 1 W. B. M.

LIST OF REJECTED T. & S. FILINGS MADE
IN LEWISTON LAND OFFICE, April 25th,
1904.

Name.		
Edwin Bliss,	Clarkston, Wash.	S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 14; N. $\frac{1}{2}$ NE. $\frac{1}{4}$ Sec. 23, T. 38 N. R. 5 E. B. M.
Grace W. Graley,	Lewiston, Ida.	Lots 1, 2, S. $\frac{1}{2}$ NE. $\frac{1}{4}$, Sec. 1, T. 38 N. R. 6 E. B. M.
Laura C. B———	Lewiston, Ida.	NE. $\frac{1}{4}$ Sec. 12, T. 38 N. R. 6 E. B. M.
Lee B. Strausburg,	Clarkston, Wash.	S. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 14; N. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 23, T. 38 N. R. 5 E. B. M.
Leding Smallding,	Lewiston, Ida.	NW. $\frac{1}{4}$ Sec. 18, T. 38 N. R. 6 E. B. M.
Ralph H. Chapman,	Lewiston, Ida.	Lots 1, 2, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 30, T. 39 N. R. 5 E. B. M.
Rees Pickering,	Genesee, Ida.	E. $\frac{1}{2}$ SW. $\frac{1}{4}$, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 19, T. 38 N. R. 6 E. B. M.
Abram Adams,	Orofino, Ida.	SW. $\frac{1}{4}$ NE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 9, T. 39 N. R. 5 E. B. M.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3750—40]

Defendants' Exhibit "N-1."

UNITED STATES OF AMERICA,—ss:

THE PRESIDENT OF THE UNITED STATES
OF AMERICA, To the Honorable the
(Seal) Judges of the District Court for the
Southern District of Idaho, Greeting:

WHEREAS, lately in the District Court of the
United States for the Southern District of Idaho,
before you, or some of you, in a cause between THE
UNITED STATES, Plaintiff, and WILLIAM F.
KETTENBACH, GEORGE H. KESTER and
WILLIAM DWYER, Defendants, No. 615, a judg-
ment was duly entered on the 17th day of June, A. D.
1907, in favor of the said plaintiff and against the
said defendants Wm. F. Kettenbach and Geo. H.
Kester; and a judgment was duly entered on the 17th

day of June, A. D. 1907, in favor of the said plaintiff and against the said defendant William Dwyer; which said judgments are of record in the said cause in the office of the clerk of the said District Court, (to which record reference is hereby made and the same is hereby expressly made a part hereof,) as by the inspection of the Transcript of the Record of the said District Court, which was brought into the United States Circuit Court of Appeals for the Ninth Circuit by virtue of a writ of error prosecuted by the said William F. Kettenbach, George H. Kester and William Dwyer as plaintiffs in error agreeably to the Act of Congress in such cases made and provided, fully and at large appears:

Ans Whereas, on the sixty day of October in the year of our Lord One Thousand Nine Hundred and eight the said cause came on to be heard before the said Circuit Court of Appeals, upon the said Transcript of the Record, and was duly argued and submitted. [3751—41]

On Consideration Whereof, it is not here ordered and adjudged by this Court, that the judgments of the said District Court in this cause be, and the same are hereby reversed, and the cause is remanded to the said District Court for a new trial.

(May 17, 1909)

YOU, THEREFORE, ARE HEREBY COMMANDED That such further proceedings be had in the said cause in accordance with the opinion and judgment of this Court and as according to right and justice and the laws of the United States ought to be had, the said judgments of said District Court notwithstanding.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 15th day of September, in the year of our Lord One Thousand, Nine Hundred and nine.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

[Endorsed]:

No. 615.

No. 1605.

*United States Circuit Court of Appeals for the Ninth
Circuit.*

WILLIAM F. KETTENBACH et al.,

vs.

THE UNITED STATES OF AMERICA.

MANDATE

UNDER RULE 32 [3752—42]

Filed Sept. 22, 1909. A. L. Richardson, Clerk.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3753—43]

Defendants' Exhibit "O-1."

*In the District Court of the United States, District of
Idaho, Northern Division.*

No. 615.

THE UNITED STATES,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER and WILLIAM DWYER.

No. 605.

THE UNITED STATES,

vs.

JACKSON O'KEEFE, WILLIAM DWYER,
GEORGE H. KESTER and WILLIAM F.
KETTENBACH.

No. 607.

THE UNITED STATES,

vs.

WILLIAM DWYER, GEORGE H. KESTER and
WILLIAM F. KETTENBACH.

Verdict.

We the jury in the above-entitled consolidated causes find the defendants, William F. Kettenbach, George H. Kester and William Dwyer, not guilty as charged in the several indictments, in the above-entitled causes, exclusive of counts one, two, and five in cause numbered 615.

(Signed) WM. B. ALLISON,
Foreman.

[Endorsed]: Filed Feb. 26, 1910. A. L. Richardson, Clerk. [3754—44]

Defendants' Exhibit "P-1."

*United States District Court, Northern Division,
District of Idaho.*

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER and WILLIAM DWYER,
Defendants.

Verdict.

We, the jury in the above-entitled cause, find the defendant William F. Kettenbach not guilty as charged in the first count of the indictment; and we find the defendant William F. Kettenbach not guilty as charged in the second count of the indictment; and we find the defendant William F. Kettenbach guilty as charged in the third count of the indictment; and we find the defendant William F. Kettenbach guilty as charged in the fourth count of the indictment; and we find the defendant William F. Kettenbach not guilty as charged in the fifth count of the indictment; and we find the defendant George H. Kester not guilty as charged in the first count of the indictment; and we find the defendant George H. Kester not guilty as charged in the second count of the indictment; and we find the defendant George H. Kester guilty as charged in the third count of the indictment; and we find the defendant George H. Kester

guilty as charged in the fourth count of the indictment; and we find the defendant George H. Kester not guilty as charged in the fifth count of the indictment; and we find the defendant William Dwyer not guilty as charged in the first count of the indictment; and we find the defendant [3755—45] William Dwyer not guilty as charged in the second count of the indictment; and we find the defendant William Dwyer guilty as charged in the third count of the indictment; and we find the defendant William Dwyer guilty as charged in the fourth count of the indictment; and we find the defendant William Dwyer not guilty as charged in the fifth count of the indictment.

M. D. FREDENBERG,

Foreman of the Jury.

[Endorsed]: Filed June 16, 1907. A. L. Richardson, Clerk. [3756—46]

Defendants' Exhibit "Q-1."

POTLATCH LUMBER COMPANY.

To W. F. Kettenbaugh,

Address—Lewiston.

Voucher No. 155.

For Items Following or as
per Bill hereto attached.

Date.

Dr. Cr.

6—18

15500.00

15500.00

Received at Moscow of Potlatch Lumber Company, the sum of Fifteen thousand and five hundred and no/100 Dollars, in full for the above account.

W. F. KETTENBACH.

\$15500.00.

For KESTER & KETTENBACH.

Approved — WM. DEWEY.

(Back of Vouchers:)

No. 155. \$15500.00.

Potlatch Lumber Company
in favor of

W. F. Kettenbaugh.

Paid by Check No. 155. Date 6/18, 1903.

On Spokane & Eastern Trust Co.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3757—47]

Defendants' Exhibit "R-1."

POTLATCH STATE BANK. No. 137.

Potlatch, Idaho, Oct. 5, 1906.

Pay to the order of Kettenbach & Kester,
\$2,200.00 Twenty two hundred 00/100 Dollars.

To the Spokane and Eastern Trust Co.,
Spokane, Washington.

M. McPHERSON,
Cashier.

Stamped: Paid, Mail Teller, Oct. 9, 1906, Spokane
& Eastern Trust Co., Spokane, Wash.

[Endorsed]: Kettenbach & Kester.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3758—48]

Defendants' Exhibit "W-1."

Please Examine and Report Without Delay.

Lewiston, Idaho, 191....

M.....

.....

In Account With IDAHO TRUST COMPANY.

Approximate Date.	Name.	Amount.	Number.		Date Paid.
6-26-07	Geo. H. Kester	5000.00	2291	Demand due 1/9/08	2000.00 7-9-07
7-9-07	"	25000.00	2311	Part Pmt. 8-23-07	\$5000. 12-28-07
8-12-07	Naylor & Norlin G. H.				
	Kester, End.	5000.00	2357	Demand	2-4-09
12-30-07	Geo. H. Kester	20000.00	2480	Due 6-30-08	6-29-08
4-7-08	"	500.00	2592	Demand	5-14-08
5-13-08	"	1500.00	2638	Demand	6-27-08
6-27-08	"	1600.00	2712	Demand	12-31-08
6-30-08	"	20000.00	2714	Demand	12-31-08
9-18-08	"	400.00	2822	Demand	12-31-08
12-30-08	"	20000.00	2939	Demand	4-16-09
" " "	"	7500.00	2940	Demand	7-3-09
7-3-09	"	9475.00	5560	Due Sep. 30, 09.	10-8-09
10-8-09	"	10511.87	5599	" Dec. 30, 09.	1-8-10
10-21-09	"	20000.00	5600	" " "	1-8-10
12-30-09	"	20000.00	5613	Demand	4-9-10
" " "	"	8800.00	5614	Demand	4-9-10
" " "	"	20000.00	5619	Demand	4-9-10
" " "	Naylor & Norlin G. H.				
	Kester, End.	8000.00	5623	Feb. 9, '10.	2-9-10
" " "	Naylor & Norlin G. H.				
	Kester, End.	8000.00	5678	Demand	
3-30-10	Geo. H. Kester	9820.00	5701	Demand	6-30-10
"	"	20000.00	5702	Demand	6-30-10
"	"	20000.00	5703	Demand	6-30-10
6-30-10	"	20000.00	5755	Demand (Oct. 7/10)	
"	"	20000.00	5756	Demand	"
"	"	10865.50	5757	Demand	"

Checked off with Idaho Trust Co. Books Oct. 21/10. O. K.

L. M. GRAY.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk.

[3759—49]

Defendants' Exhibit "X-1."

Please Examine and Report Without Delay.

Lewiston, Idaho, 191....

M.....

.....

In Account With IDAHO TRUST COMPANY.

Approximate Date.	Name.	Amount.	Number.		Date Paid.
5-19-08	W. F. Kettenbach and		2648	P. P. 12/26/08	1500.
	Geo. H. Kester	3000.00		Bal. Pd. Dec. 31, '08.	

Checked off with Idaho Trust Co. Books 10-21-10. O. K.

L. M. GRAY.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3760—50]

Defendants' Exhibit "Y-1."

Please Examine and Report Without Delay.

Lewiston, Idaho, 191....

M.....

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In Account With IDAHO TRUST COMPANY.

Approximate Date.	Name.	Amount.	Number.		Date Paid.
3-9-09	Wm. F. Kettenbach	3000.00	2948	Demand	6-25-09
3-15-09	"	7000.00	2949	Demand	6-3-09
3-29-09	"	2000.00	2954	Demand	5-15-09
3-15-09	"	200.00	2955	Demand	6-3-09
9-14-09	"	16109.25	5578	Demand	
				Part Payts	5300.9-14-09
					2820.9-14-09
					7989.25
				Bal. Pd.	1-8-10
10-13-09	"	4579.00	5602	Due Feb. 5 '10	2-5-10
1-2-10	"	1000.00	5616	Demand	1-27-10
2-5-10	"	9544.71	5677	Demand P. P. 2/9/10	225.00
				Mar. 7-10 Part Paid	1133.66
					<u>1358.66</u>

Checked off with Idaho Trust Co. Books 10-20-10. O. K.

L. M. GRAY.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3761—51]

Defendants' Exhibit "Z-1."

\$51937.12. Lewiston, Idaho, Sept. 30th, 1910.

On demand after date, without grace, for value received, I promise to pay to the order of IDAHO TRUST COMPANY (a corporation under laws of Idaho), at its office, Lewiston, Idaho, Fifty-one thousand nine hundred thirty-seven and 12/100 Dollars, in United States Gold Coin, with interest after date in like Gold Coin, at the rate of ten per cent. per annum until paid. And if suit be instituted to collect this note, or any part thereof, I agree to pay a reasonable sum, in like Gold Coin, as Attorney's fees in said suit, and that such sum may be recovered therein.

GEO. H. KESTER.

P. O. 322 Mansfield Ave.

No. 5786. Due Spokane, Wash.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3762—52]

Defendants' Exhibit "B-2."

\$8000.00. Lewiston, Idaho, Dec. 30th, 1909.

On demand after date, without grace, for value received, I promise to pay to the order of IDAHO TRUST COMPANY (a corporation under laws of Idaho), at its office, Lewiston, Idaho, Eight Thousand and 00/100 Dollars, in United States Gold Coin, with interest after date in like Gold Coin, at the rate of eight per cent. per annum until paid. And if suit be instituted to collect this note, or any part thereof, I agree to pay a reasonable sum, in

like Gold Coin, as Attorney's fees in said suit, and that such sum may be recovered therein.

NAYLOR and NORLIN CO. LTD.

GEO. H. KESTER, Prest.

E. P. KESTER, Secy.

P. O. 322 Mansfield Ave., Spokane, Wash.

No. 5678. Due

Endorsed:

10/4/08 Int. paid to Mar. 30, 1910. \$160.00.

6/30/10 Int. paid to June 30, 1910. \$160.00.

10/6/10 Int. paid to Sept. 30th, 1910. \$160.00

For Value Received the undersigned guarantees the payment of the within note, absolutely, to any holder, and waives protest, demand and notice of nonpayment.

GEO. H. KESTER.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3763—53]

Defendants' Exhibit "C-2."

\$9544.71. Lewiston, Idaho, Feb. 5th, 1910.

On demand after date, without grace, for value received, I promise to pay to the order of IDAHO TRUST COMPANY (a corporation under laws of Idaho), at its office, Lewiston, Idaho, Ninety five hundred forty four and 71/100 Dollars, in United States Gold Coin, with interest after date in like Gold Coin, at the rate of eight per cent. per annum until paid. And if suit be instituted to collect this note, or any part thereof, I agree to pay a reasonable sum, in like Gold Coin, as Attorney's fees in

said suit, and that such sum may be recovered therein.

W. F. KETTENBACH.

P. O. City.

No. 5677. Due

Endorsed:

Feb. 7th, 1910, Paid \$225.00 (Proceeds two houses).

Mar. 7-10 Paid \$1133.66.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3764—54]

Defendants' Exhibit "D-2."

Wm. F. Kettenbach.

No.	Date.	Amt.	Time.	Rate.	Date Paid.
17857	Nov. 27th, 1909	\$2,000.00	Demand	8%	
17717	Sept. 21st, 1909	10,000.00	3 Mos.	8%	
17567	July 16th, 1909	2,000.00	90 dys.	8%	Nov. 29, '09
17460	June 17th, 1909	5,000.00	3 mos.	8%	Sept. 21, '09
17467	June 17th, 1909	5,000.00	3 mos.	8%	Sept. 21, '09
17228	Mar. 15th, 1909	200.00	Demand	8%	Mar. 27, '09
17210	Mar. 9th, 1909	2,000.00	Demand	8%	June 17, '09
17211	Mar. 9th, 1909	18,000.00	Demand	8%	June 17, '09
17110	Jan. 27th, 1908	3,000.00	Demand	8%	Mar. 9th, '09
17004	Dec. 26th, 1908	8,000.00	Demand	8%	Jan. 27th, '09
16904	Oct. 8th, 1908	15,000.00	Demand	8%	Dec. 22nd, '09
16862	Oct. 5th, 1908	400.00	Demand	10%	
16735	June 30th, 1908	4,000.00	Demand	8%	Dec. 24, '08
16600	May 5th, 1908	1,000.00	Demand	8%	June 24, '08
16567	April 2nd, 1908	1,208.35	Demand	8%	June 30, '08
16503	Feb. 28th, 1908	12,791.65	4 Mos.	8%	June 30, '08
16508	Feb. 28th, 1908	1,000.00	Demand	8%	June 24, '08
16446	Dec. 30th, 1907	4,000.00	6 mos.	8%	May 20, '08
16417	Dec. 7th, 1907	1,000.00	Demand	8%	Dec. 28, '07

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3765—55]

Defendants' Exhibit "E-2."

Geo. H. Kester.

No.	Date.	Amt.	Time.	Rate.	Date Paid.
17768	Sept. 30, 1909	20,000.00	3 mos.	8%	
17522	June 30, 1909	20,000.00	3 mos.	8%	Oct. 7, '09
17134	Dec. 30, 1908	8,000.00	Demand	8%	

Guarantor

Makers, Naylor & Norlin.

17032	Dec. 30, 1908	20,000.00	Demand	8%	June 29, '09
16732	June 30, 1908	20,000.00	6 mos.	8%	Dec. 31, '08
16447	Dec. 30, 1907	20,000.00	6 mos.	8%	July 1, '08
16276	Aug. 12, 1907	20,000.00	Demand	10%	Feb. 21, '09

Guarantor Part Payt \$5,000. 12-28-'07

Makers, Naylor & " " 5,000. 4-3-'08

Norlin " " 5,000. 7-13-'08

" " 2,000. 11-18-

16256	Aug. 2nd, 1907	5,000.00	Demand	10%	Aug. 15, '08
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Guarantor

Makers, Naylor & Norlin.

16235	June 22, 1907	15,000.00	Demand	8%	Sept. 10, '07
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Guarantor

Makers, Naylor & Norlin.

16202	July 9th, 1907	20,000.00	6 mos.	8%	Dec. 28, '07
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Joint maker with Edna P. Kester.

15949	Jan. 10th, 1907	260.00	Demand	10%	Aug. 22, '07
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Part Payt. \$79.05 8-8-'07

Guarantor

Maker Chas. P. Jaeger.

15418	May 12, 1906	10,000.00	Demand	10%	July 9th, '07
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14997	Sept. 31, 1905	1,000.00	Demand	—	July 9, '07
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14930	July 11, 1905	500.00	6 mos.	6%	Not Pd. in
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Register.

Guarantor

Maker W. W. Brown.

Naylor & Norlin.

Acct. overdrawn \$30,806.42 July 9th, 1907.

Overdraw to Aug. 21, 1907 on which date Cr. Bal. \$19,442.72.

[3766—56]

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3767—57]

Defendants' Exhibit "F-2."

\$19683.50. Lewiston, Idaho, Apr. 13th, 1910.

On demand after date, without grace, for value received, I promise to pay to the order of IDAHO TRUST COMPANY (a corporation under laws of Idaho), at its office, Lewiston, Idaho, Nineteen Thousand six hundred eighty three and 50/100 Dollars, in United States Gold Coin, with interest after date in like Gold Coin, at the rate of ten per cent. per annum until paid. And if suit be instituted to collect this note, or any part thereof, I agree to pay a reasonable sum, in like Gold Coin, as Attorney's fees in said suit, and that such sum may be recovered therein.

WILLIAM DWYER.

KITTIE E. DWYER.

P. O. City.

No. 5706. Due

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3768—58].

Defendants' Exhibit "G-2."

\$480.00. Lewiston, Idaho, Apr. 25th, 1910.

On demand after date, without grace, for value received, I promise to pay to the order of IDAHO TRUST COMPANY (a corporation under laws of Idaho), at its office, Lewiston, Idaho, Four Hundred eighty and no/100 Dollars, in United States Gold Coin, with interest after date in like Gold Coin, at the rate of ten per cent. per an-

num until paid. And if suit be instituted to collect this note, or any part thereof, I agree to pay a reasonable sum, in like Gold Coin, as Attorney's fees in said suit and that such sum may be recovered therein.

WILLIAM DWYER.

P. O. City.

No. 5720. Due

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3769—59]

Defendants' Exhibit "I-2."

William Dwyer.

No.	Date.	Amt.	Time.	Rate.	Date Paid.
17786	Oct. 13th, 1909	\$3,450.00	Demand	10%	
17042	Dec. 31st, 1908	14,056.00	Demand	10%	Feb. 3d, 1909
16776	Sept. 1st, 1908	100.00	Demand	10%	Feb. 3d, 1909
16756	July 11th, 1908	50.00	Aug. 1	10%	Aug. 5th, 1908
16458	Dec. 30, 1907	5,800.00	1 year	10%	Oct. 29, 1908
16368	Oct. 3, 1907	150.00	Demand	10%	June 8, 1908
16342	Sept. 14, 1907	150.00	Demand	10%	Sept. 21, 1907
16283	Aug. 15, 1907	100.00	Demand	10%	Sept. 3, 1907
16102	April 23, 1907	1,000.00	Demand	10%	Dec. 31, 1907

Joint with Kittie E. Dwyer.

15942	Jan. 18, 1907	4,000.00	Demand	10%	Dec. 31, 1907
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Joint with Kittie E. Dwyer.

14904	June 29, 1905	7,100.00	June 29-06	10%	Sept. 29, '08
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[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3770—60]

Defendants' Exhibit "J-2."

Wm. Dwyer to Idaho Trust Company.

No.	Date.	Amt.	Time.	Rate.	Date Paid.
5603	Oct. 13, 1909	15,000.00		10%	

Joint with Kittie E. Dwyer.

5536		1,287.50	2-15-09	10%	Oct. 21-'09
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Trust Deed.

5528	Aug. 1-1908	100.00	8-1-'08	10%	July 14, '09
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5495		7,100.00	6-29-06	10%	Dec. 31, '08
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Sec. 15-38-6 960 acres

Joint with Kittie E. Dwyer.

5494		5,800.00	12-30-07	10%	Dec. 31, '08
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[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3771-61]

Defendants' Exhibit "M-2."**LEWISTON NATIONAL BANK.**

Capital & Surplus

\$200,000.00.

Frank W. Kettenbach, President.

J. Alexander, Vice-President.

Edward C. Smith, Cashier.

Lewiston, Idaho, Sept. 16, 1907.

COPY.

Mr. C. W. Robnett,

Vale, Oregon.

Dear Sir:

I was very much surprised to find you had given a check to Mr. West for \$500.00 in addition to other amounts for which you had arranged with me. Will Kettenbach advised me that it was impossible to close the sale of your land without the payment of this check, and Mr. West refused to accept any terms except cash for the check, hence it was paid. This now leaves your account overdrawn a few dollars less than \$400.00. You are perfectly aware that

I cannot carry this overdraft; and I also advised positively that \$2,000.00 was the limit that I would loan to you upon the value of your timber claims, and \$1,500.00 the limit upon the value of your home. The Bank, however, paid your checks, and something must be done to straighten out the matter.

I have therefore concluded to propose to you to take over absolutely your two timber claims and any equity which you may claim in a piece of land formerly conveyed to the Bank for \$2,400.00. If this is agreeable to you please advise by return mail.

Concerning the equity which you claimed to me you had in a certain piece of land that was conveyed to the Lewiston National Bank, I have consulted with Will Kettenbach, and he says that any equity which you might [3772—62] have had in that was long ago waived.

Yours truly,

LEWISTON NATIONAL BANK.

By FRANK W. KETTENBACH,

President.

Page 514 L. N. B. Letter Book.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3773—63]

Defendants' Exhibit "N-2."

Received at Lewiston, Idaho.

24. SK S. K 8—Paid.

Vale Ore Sept. 21st, '07.

Via Ontario.

F. W. Kettenbach,

Lewiston, Ida.

Letter of sixteenth just received will accept proposition.

C. W. ROBNETT.

1:43. PM.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3774—64]

Defendants' Exhibit "O-2."

Approximate Date.	Name.	Amt.	Number.	Date Paid.
8-1-08	Kittie E. Dwyer & Wm. Dwyer	100.00	5528	7-14-09
12-31-08	"	14056.00	5529	7-14-09
2-27-09	"	1287.50	5536	2-27-09
10-31-09	"	15000.00	5603	4-13-10
12-30-09	"	253.66	5612	4-13-10
4-13-10	"	19683.50	5706	
4-25-10	"	480.00	5720	

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3775—65]

Defendants' Exhibit "Q-2a."

Office of

EDWARD RUTLEDGE TIMBER CO.

Room 423 Peyton Block.

Address all Communications to the Company.

F. J. Davies, Gen'l. Mgr.

Spokane, Wash., Dec. 20, 1905.

Mr. W. H. Farnham,
St. Paul, Minn.

Dear Sir,—

I beg to advise that I have to-day made draft on the Clearwater Timber Company, Ltd., in favor of the Old National Bank of Spokane, Wash., for \$4900.00, in payment for the following claims:

John Canham, NW. $\frac{1}{4}$ Sec. 21, Tp. 38 N. R.

5 E., 160 ac.....\$2900.00

Geary Vanartsdalen, NE. $\frac{1}{4}$ Sec. 25, Tp. 37

N. R. 5 E., 160 ac..... 2000.00

Yours truly,

F. J. DAVIES.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3776—66]

Defendants' Exhibit "Q-2b."

\$4900.00. Spokane, Wash., Dec. 20, 1905.

At sight Pay to the order of Old National Bank of Spokane, Wash., Four Thousand, nine hundred Dollars. Value received and charge the same to account of

F. J. DAVIES.

To Clearwater Timber Company, Ltd.,

Cr. W. H. Farnham,

No. 9. St. Paul, Minn.

Stamped: "Collection Dec. 20, 1905, Teller."

Stamped: "Paid, Dec. 23, 1905, The Nat'l Ger. American Bank, Collection Department, St. Paul, Minn."

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3777—67]

Defendants' Exhibit "R-2a."

Office of

EDWARD RUTLEDGE TIMBER CO.

Room 423 Peyton Block.

Address all Communications to the Company.

F. J. Davies, Gen'l Mgr.

Spokane, Wash., June 19, 1907.

Mr. W. H. Farnham,

St. Paul, Minnesota.

Dear Sir,—

I have today made draft No. 126 on Clearwater Timber Company, Ltd., in your care, favor of Old National Bank of Spokane, Wash., for \$8,650.00. This draft pays for a Warranty Deed from John E. Chapman, bachelor, covering SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 12, NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 13, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 24, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 25, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$ E. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 27, Tp. 40 N. R. 4 E.; S. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 2, Tp. 37 N. R. 5 E., containing 600 acres.

I have also made draft No. 127, paying for a Warranty Deed from Mary C. Frye conveying SW. $\frac{1}{4}$ NW. $\frac{1}{4}$, W. $\frac{1}{2}$ SW. $\frac{1}{4}$, SE. $\frac{1}{4}$ SW. $\frac{1}{4}$ Sec. 13, Tp. 40 N. R. 5 E., 160 acres. This draft is for \$1250.00.

Yours truly,

F. J. DAVIES,

B.

Copy to E. N. Brown. [3778—68]

Office of
EDWARD RUTLEDGE TIMBER CO.

Room 423 Peyton Block.

Address all Communications to the Company.

F. J. Davies, Gen'l Mgr.

Spokane, Wash., June 20, 1907.

Mr. W. H. Farnham,
St. Paul, Minnesota.

Dear Sir,—

In my letter to you, written yesterday, the 19th, I find that I have made an error in reporting the land covered by the John E. Chapman deed. The correct description reads: SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 12, NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 13, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$ (SW. $\frac{1}{4}$), SW. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 24, NE. $\frac{1}{4}$ NW. $\frac{1}{4}$ Sec. 25, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, E. $\frac{1}{2}$ SE. $\frac{1}{4}$ Sec. 27, Tp. 40 N. R. 4 E., S. $\frac{1}{2}$ NE. $\frac{1}{4}$, S. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 2, Tp. 37 N. R. 5 E., containing 600 ac.

I understand you do not enter these descriptions until you receive the deeds, so hope my mistake has not caused you any inconvenience.

Yours truly,

F. J. DAVIES,

B.

(Copy to E. N. Brown.)

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3779—69]

Defendants' Exhibit "R-2b."

\$8650.00.

Spokane, Wash. June 19, 1907.

At sight Pay to the order of Old National Bank of
Spokane, Wash., Eight thousand, six hundred and
fifty Dollars.

Value received and charge the same to account of
F. J. DAVIES.

To Clearwater Timber Company, Ltd.

Cr. W. H. Farnham,

No. 126.

St. Paul, Minn.

Stamped: "Exchange Jun. 19, 1907, Teller."

Stamped: "Paid, Jun. 24, 1907, The Nat'l. Ger.
American Bank, Collection Department, St. Paul,
Minn."

Stamped: "Please send direct to National German
American Bank, St. Paul, Minn."

[Endorsed]: Filed Nov. 7, 1910. A. L. Richard-
son, Clerk. [3780—70]

Defendants' Exhibit "S-2a."

Office of

EDWARD RUTLEDGE TIMBER CO.

Room 423 Peyton Block.

Address all Communications
to the Company.

F. J. Davies, Gen'l. Mgr.

Spokane, Wash., July 11, 1907.

Mr. W. H. Farnham,

St. Paul, Minnesota.

Dear Sir,—

I have today made draft No. 138 on Clearwater

Timber Company, Ltd., in your care, favor of Old National Bank of Spokane, Wash., for \$2300.00. This draft pays for:

Warranty Deed, Frank W. Kettenbach and wife, SE. $\frac{1}{4}$ SE. $\frac{1}{4}$ Sec. 23, NE. $\frac{1}{4}$ NE. $\frac{1}{4}$ SW. $\frac{1}{4}$ NE. $\frac{1}{4}$ Sec. 26, Tp. 37 N., R. 2 E., 120 acres, \$800.00. Deed is dated June 12, 1907.

Warranty Deed, Mary Fuhrer, single, W. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 26, Tp. 40 N. R. 5 E., 80 acres, price paid—\$1500.00. Deed is dated June 27, 1907.

Yours truly,

F. J. DAVIES.

B.

Copy E. N. Brown.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3781—71]

Defendants' Exhibit "S-2a."

\$2300.00. Spokane, Wash. July 11, 1907.

At sight Pay to the order of Old National Bank of Spokane, Wash., Two thousand, three hundred Dollars.

Value received and charge the same to account of

F. J. DAVIES.

To Clearwater Timber Company, Ltd.,

Cr. W. H. Farnham,

St. Paul, Minn.

No. 138.

Stamped: "Collection, Jul. 12, 1907, Teller."

Stamped: "Paid, Jul. 15, 1907, The Nat'l. Ger. American Bank, Collection Department, St. Paul, Minn."

Stamped: "Please send direct to National German American Bank, St. Paul, Minn."

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3782—72]

Defendants' Exhibit "T-2a."

Office of

EDWARD RUTLEDGE TIMBER CO.

Room 423 Peyton Block.

Address all Communications
to the Company.

F. J. Davies, Gen'l. Mgr.

Spokane, Wash., Sept. 12, 1907.

Mr. W. H. Farnham,—

St. Paul, Minnesota.

Dear Sir,—

I have today made draft No. 162 on Clearwater Timber Company, Ltd., in your care, favor of Spokane & Eastern Trust Company, for \$21,500.00. This draft pays for:

Warranty Deed, Elizabeth White, widow, S. $\frac{1}{2}$ NW. $\frac{1}{4}$, N. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 15, Tp. 39 N. R. 3 E., 160 acres. Deed dated Sept. 4, 1907. Purchase price is, \$1200.00.

Warranty Deed, Elizabeth White, widow, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 15, Tp. 39 N. R. 3 E., 160 acres. Deed dated Sept. 4, 1907. Purchase price, \$1600.00.

Warranty Deed, Margret A. Goldsmith and husband, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, Sec. 24, N. $\frac{1}{2}$ NW. $\frac{1}{4}$ Sec. 25, Tp. 38 N. R. 5 E., 160 acres. Date of deed Sept. 5, 1907. Price, \$3000.00.

Warranty Deed, Wm. J. White and wife, E. $\frac{1}{2}$ SE. $\frac{1}{4}$, SE. $\frac{1}{4}$ NE. $\frac{1}{4}$, Sec. 19, NW. $\frac{1}{4}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SW. $\frac{1}{4}$, NE. $\frac{1}{4}$ SW. $\frac{1}{4}$, NW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 20, Tp. 36 N. R. 5 E., 320 acres. Deed dated Sept. 5, 1907, purchase price, \$4500.00.

Warranty Deed, Alice M. Blakeman and husband, E. $\frac{1}{2}$ SW. $\frac{1}{4}$, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 11, Tp. 38 N. R. 6 E., 160 acres. Date Sept. 5, 1907. Purchase price, \$3500.00.

Warranty Deed, Jacob Blakeman and wife, S. $\frac{1}{2}$ SE. $\frac{1}{4}$, Sec. 14, N. $\frac{1}{2}$ NE. $\frac{1}{4}$, Sec. 23, Tp. 38 N. R. 5 E., 160 acres. Date September 5, 1907. Price, \$4200.00

Warranty Deed, J. W. Killinger, bachelor, SW. $\frac{1}{4}$ SE. $\frac{1}{4}$, Sec. 18, N. $\frac{1}{2}$ NE. $\frac{1}{4}$, Sec. 19, NW. $\frac{1}{4}$ NW. $\frac{1}{4}$, Sec. 20, Tp. 37 N. R. 6 E., 160 acres, date of deed June 27 1907. Purchase price, \$3500.00.

Also draft No. 163, favor of Old National Bank of Spokane, Wash., for \$825.00. This pays for Warranty Deed from Frank W. Stallard and wife, E. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 23, W. $\frac{1}{2}$ NW. $\frac{1}{4}$, Sec. 24, Tp. 37 N. R. 4 E., 160 acres. Date of deed [3783—73] August 19, 1907. Purchase price being \$825.00.

Yours truly,

F. J. DAVIES.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3784—74]

Defendants' Exhibit "T-2b."

\$21,500.00. Spokane, Wash. Sept. 12, 1907.

At sight Pay to the order of Spokane & Eastern Trust Company, Twenty-one thousand, five hundred Dollars.

Value received and charge the same to account of
F. J. DAVIES.

To Clearwater Timber Company, Ltd.,

Cr. W. H. Farnham,

No. 162.

St. Paul, Minn.

Stamped: "Paid, Sep. 16, 1907, The Nat'l. Ger. American Bank, Collection Department, St. Paul, Minn.

Stamped: "Please send direct to National German American Bank, St. Paul, Min."

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3785—75]

Defendants' Exhibit "U-2."**OPINION OF TITLE.****PROPERTY:—**

The Southwest quarter of the Northwest quarter of Section 22, and the East half of the Northwest quarter, and the Southwest quarter of the Northeast quarter; Northwest quarter of the Southeast quarter of Section 27 in Township 40 North of Range 1 West of Boise Meridian.

South half of the Southeast quarter and the Southwest quarter of Section 29 in Township 42 North of Range 1 West of Boise Meridian, in Latah County, Idaho.

TITLE:—

In Potlatch Lumber Company.

TAXES:—

Paid to 1905.

LIENS:—

None.

Opinion of title taken from abstract of The Latah County Abstract and Title Guarantee Company of Moscow, Idaho, dated at Moscow, Idaho, April 7th 1905, at 5 o'clock P. M.

Opinion dated at Moscow, Idaho this 10th day of April, 1905.

GEO. G. PICKETT,
Attorney at Law.

[Endorsed]: Filed Nov. 7, 1910. A. L. Richardson, Clerk. [3786—76]

Defendants' Exhibit "V-2."

Lewiston, Idaho, April 25, 1904. No.

LEWISTON NATIONAL BANK,
of Lewiston, Idaho.

Pay to the order of E. L. Wiggin, \$48.00, Forty-eight Dollars.

WM. DWYER.

Exp. C. Evans.

Endorsed: Ed. L. Wiggin.

Stamped: "Paid, Apr. 25, 1904, Lewiston National Bank, Lewiston, Idaho.

[Endorsed]: Filed June 24, 1911. A. L. Richardson, Clerk. [3787—77]

Defendants' Exhibit "W-2."

Lewiston, Idaho, April 25, 1904. No.

LEWISTON NATIONAL BANK,
of Lewiston, Idaho.Pay to the order of E. L. Wiggin, \$50.00, Fifty
Dollars.

WM. DWYER.

Exp. C. D. Whitney.

Endorsed: Ed. L. Wiggin.

Stamped: Paid, Apr. 25, 1904, Lewiston National
Bank, Lewiston, Idaho.[Endorsed]: Filed June 24, 1911. A. L. Richard-
son, Clerk. [3788—78]

*In the Circuit Court of the United States for the Dis-
trict of Idaho, Northern Division.*

IN EQUITY—Nos. 388-406-407.

THE UNITED STATES OF AMERICA,

Complainant,

vs.

WILLIAM F. KETTENBACH, and Others.

Defendants.

**Stipulation [Re Testimony, etc., in Causes Nos. 388,
406, 407].**

WHEREAS, Special Examiners heretofore have been appointed by the Court to take and hear the testimony in all of the above-entitled causes, and each of said causes charge conspiracy to defraud the United States of certain of its timber lands, and the Bill of Complaint in each of said causes specifically describes

the several tracts of land sought to be recovered by the Government, and refers to the several patents sought to be cancelled;

With the view of speeding said causes to a hearing, and for the purpose of economy in the taking of the testimony in said causes, and making of the record in the same for the Court, it is hereby stipulated and agreed by and between the respective parties to the above-entitled causes that the testimony of all of the witnesses of all the parties to the said causes produced and taken before said examiners heretofore appointed, or before any examiners or persons hereafter appointed by said Court, or agreed upon between the parties to these causes to act in such capacity in all of said causes shall be considered as having been taken in each and all of said causes, and shall go to make up the record in each and all of said causes, with the same force and effect as though said causes were consolidated, subject, however, to the defendants' objection made at the time of the introduction of any evidence so offered that the same is incompetent, irrelevant and immaterial.

It is further stipulated by and between the parties to said causes that the evidence offered by and on behalf of any of said parties in any of said causes shall be considered as offered and [3789] received in evidence in all of said causes unless at the time of the offering of said evidence the party so offering the same shall specifically specify as to which of said

causes the same is offered.

(Signed:) PEYTON GORDON,
Special Assistant to the Attorney-General,
Solicitor for Complainant.

JAMES E. BABB,
Solicitor for Lewiston National Bank, Idaho Trust
Company, Potlatch Lumber Company, Clear-
water Timber Company, Frank W. Kettenbach,
Defendants.

GEO. W. TANNAHILL,
Solicitor for William F. Kettenbach, George H. Kes-
ter, William Dwyer, Elizabeth White, Edna P.
Kester, Martha E. Hallett, Kittie E. Dwyer, De-
fendants.

MORGAN & MORGAN,
Solicitors for Western Land Company, Defendant.

EUGENE A. COX,
Solicitor for Elizabeth Kettenbach, Curtis Thatcher,
Elizabeth W. Thatcher, and Elizabeth White,
Defendants. [3790]

*In the District Court of the United States for the
District of Idaho, Central Division.*

Case No. 388.

UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER, WILLIAM DWYER, CLAR-
ENCE W. ROBNETT, and FRANK W.
KETTENBACH,

Defendants.

Decree.

This cause coming on again to be heard upon the amended Bill of Complaint, the Answer thereto, and the replication of the complainant to such Answer, and upon the proofs taken and heard in said cause, and upon the report of Warren Truitt, Esq., Referee, to whom the said cause was referred to take the testimony and report the same to the Court; and the arguments by solicitors for complainant and defendants; upon due consideration of the pleadings and the evidence and such arguments, the Court being fully advised in the premises,

IT IS ORDERED, ADJUDGED AND DECREED that this suit be and the same is hereby dismissed out of Court for want of equity, and that neither party recover costs.

AND IT IS SO ORDERED.

Dated this 15th day of April, A. D. 1912.

FRANK S. DIETRICH,
Judge.

[Endorsed]: Filed April 15th, 1912. A. L. Richardson, Clerk. [3791]

*In the District Court of the United States for the
District of Idaho, Central Division.*

IN EQUITY—No. 388.

THE UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM F. KETTENBACH and Others,
Defendants.

Petition for Appeal.

To the Judge of the District Court of the United States, for the District of Idaho:

Your petitioner, the United States of America, the complainant in the above-entitled cause, lately pending in the court above named, respectfully represents and shows that in said cause there was entered at the February term of said court in the year 1912, on the 15th day of April, 1912, a final decree greatly to the prejudice and injury of your said petitioner, by which said decree the bill of complaint filed by your said petitioner as complainant in the said cause was dismissed, and which said decree is erroneous and inequitable in many particulars, some of which are specified and assigned as errors by your said petitioner in an assignment of errors lately filed by your said petitioner in the said cause, in the office of the Clerk of said Court.

Wherefore, to the end that your petitioner may obtain relief in the premises and have opportunity to show the said errors complained of, and that the said [3792] errors may be corrected, and the said decree reversed, your said petitioner prays that it may be allowed in the said cause an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and that proper orders to the allowance of such an appeal may be made by this Court.

GEO. W. WICKERSHAM,

Attorney General of the United States,

PEYTON GORDON,

Special Assistant to the Attorney General,

Solicitors for Complainant.

[Endorsed]: Filed Sept. 16, 1912. A. L. Richardson, Clerk. [3793]

*In the District Court of the United States for the
District of Idaho, Central Division.*

IN EQUITY—No. 388.

THE UNITED STATES OF AMERICA,
Complainant,

vs.

WILLIAM F. KETTENBACH, and Others,
Defendants.

Assignment of Errors.

Now comes the United States of America, the complainant in the above-entitled cause, and, with a view to the obtaining and the prosecution of an appeal from the decree lately entered in the said cause in the court above named, files this the said complainant's assignment of errors in the said decree, as stating and designating the errors in the said decree, upon which the said complainant intends to rely in such prosecution of the said appeal.

And the said complainant assigns for such errors and says that the said United States District Court in rendering and entering the said decree erred in these matters and things, that is to say:

I. That the said Court erred in dismissing the bill of complaint as amended filed by the said complainant in the said cause.

II. That the said Court erred in not granting by decree appropriate to that end the relief prayed by the said complainant in the bill of complaint, as

amended, [3794] filed by said complainant in the said cause.

III. That the Court erred in failing to find from the evidence in said cause that the defendants named in the said bill of complaint as amended had conspired among themselves, with each other, and with divers other persons named therein and named and indicated in the evidence, to defraud the United States in the manner and for the purposes stated and charged in said bill of complaint as amended, and that the said defendants did so defraud the United States in such manner and in respect of the lands of the United States designated and described in the said bill.

IV. That the said Court erred in finding and in holding that the titles to the lands designated and described in said bill of complaint as amended, with the exception of the land described in the entry and claim of Carrie D. Maris, were obtained from the United States in accordance with law and without fraud, and that the said titles are valid in the hands of the defendants William F. Kettenbach and George H. Kester.

V. That the Court erred in finding that the defendants George H. Kester and William F. Kettenbach were not aware of any illegal understanding or agreement between the defendant Robnett and the entrywoman Carrie D. Maris, relative to the entry and claim of the said entrywoman, and that the purchase of said claim was made by Kester in good faith and for value in the ordinary course of business; and in holding in effect that the defendants pur-

chased the land designated and described in said claim [3795] and entry under such circumstances as constituted the said defendants, Kester and Kettenbach, innocent purchasers of the said land in good faith, for value and without knowledge or notice of any fraud or illegality in the title to said land.

VI. That the Court erred in finding and in holding that there is no substantial evidence in support of the contention that Fred E. Justice violated any provision of law in acquiring title to the entry and claim made by him, and described and designated in complainant's bill of complaint as amended.

VII. That the said Court erred in finding and in holding that while the validity of the claim and entry of Benjamin F. Basher, described and designated in complainant's bill of complaint as amended, is not entirely free from doubt, the evidence sustains the charge neither of fraud in the entry nor of knowledge of any illegality in the entry on the part of the present owner, (William F.) Kettenbach.

VIII. That the Court erred in finding and in holding that the evidence in this cause is insufficient to warrant a cancellation of the patent to the land described in the claim and entry of Wren Pierce, set out and described in the said bill of complaint as amended.

IX. That the said Court erred in finding and in holding that, upon all the evidence in this cause it is abundantly shown that the entrymen Francis M. Long, Benjamin F. Long and John H. Long entered into no unlawful agreements or understand-

ings relative to the claims and entries made by them, and described in said bill of [3796] complaint as amended.

X. That the said Court erred in finding and in holding that the record does not sustain the contention either that the entry of Ellsworth M. Harrington, described and set out in the bill of complaint as amended, was invalid, or that the defendant William F. Kettenbach, at the time he made the purchase thereof, had notice of any alleged invalidity.

XI. That the said Court erred in finding and in holding that the evidence does not support the charge that there was any fraud in the original entry of John H. Little, set out and described in the complainant's bill of complaint as amended, or that William F. Kettenbach, at the time he purchased the claim, had knowledge of any alleged fraudulent agreement between the said Little and Robnett.

XII. That the said Court erred in finding and in holding that there was nothing unlawful in the relations between either Bertsell H. Ferris and George Ray Robinson, two entrymen, and Robnett, or any of the other defendants relative to the entries and claims of the said Ferris and Robinson, set out and described in the complainant's bill of complaint as amended, and that said entries and claims were valid.

XIII. That the said Court erred in finding and in holding that the entryman Edgar H. Dammarell at the time he entered the land contained in the claim and entry made by him and described and designated in complainant's bill of complaint as amended, and made final proof thereon, did not have the under-

standing that he was under any [3797] obligation to transfer the land to Jackson O'Keefe, or any of the defendants, or to any other person, or to sell it for any specified consideration.

XIV. That the said Court erred in finding and in holding that the entry and claim of Joseph H. Prentice, described and designated in complainant's bill of complaint as amended, is free from legal objections.

XV. That the said Court erred in finding and in holding that the entry and claim of Edgar J. Taylor, described and designated in complainant's bill of complaint as amended, is valid.

XVI. That the said Court erred in finding and in holding that the evidence in said cause is insufficient to justify the cancellation of the entry of Charles W. Taylor, described and designated in complainant's bill of complaint as amended.

XVII. That the said Court erred in finding and in holding that the evidence in said cause is insufficient to sustain the charge that the title from the Government to the entry of Jackson O'Keefe, described and designated in complainant's bill of complaint as amended, was procured by fraud.

XVIII. That the said Court erred in finding and in holding that the preponderance of the evidence is against the theory that the defendants, Kester, Kettenbach and Dwyer, were jointly interested in the acquisition of title to the lands involved in this cause, as set out and described in complainant's bill of complaint as amended.

XIX. That the said Court erred in finding and

in [3798] holding that at no time during the period covered by the transactions complained of in this cause was there any associational arrangement, either by way of partnership, or joint ownership, or otherwise, between the defendants Kester, Kettenbach and Dwyer, or any one of them, and the defendant Robnett in the acquisition of the title to any of the lands involved in this cause, as set out and described in complainant's bill of complaint as amended.

XX. That the said Court erred in finding and in holding that the defendant Dwyer had no joint or partnership interest with the defendants Kettenbach and Kester, or either of them, in the lands involved in this cause which the latter purchased, as set out and described in complainant's bill of complaint as amended.

XXI. That the said Court erred in failing to find and to hold that the tracts of land designated in the bill of complaint as amended were severally entered by the several persons respectively making entry thereof, under, and in pursuance of unlawful agreements, contracts, arrangements and understandings theretofore, and prior to the several dates of the said entries, made and entered into by and between the said several persons so making entries of the said lands, and the defendants, or some of the said defendants, or their agents and representatives, whereby, and in virtue of which said unlawful agreements, contracts, arrangements and understandings, the said entries were made in the interest and for the benefit of said defendants, or some of them, and

the said lands so entered were agreed, bargained and arranged to be conveyed to the said defendants, or to some of them, all in the [3799] manner stated and charged in the said bill of complaint.

XXII. That the said Court erred in failing to hold upon a finding of facts appropriate thereto and properly to be made upon the evidence herein, that the titles acquired by the defendants to the lands involved herein were acquired in fraud of the United States and of the laws of the United States, and were and are invalid and voidable at the suit of the United States, in this and for this reason, namely, that the defendants intended to acquire, and did in fact acquire, the said lands under, through, and in pretended accordance with the statutes of the United States relating to such matters, and in quantities and to an aggregate area greatly in excess of the quantities and areas which the said defendants, or any, or all of them, were entitled to acquire under, and in virtue of the said statutes, as set out and described in complainant's bill of complaint as amended.

XXIII. That the said Court erred in failing to hold upon a finding of facts appropriate thereto and proper to be made upon the evidence herein, that the titles acquired by the defendants in the lands herein involved were acquired in fraud of the laws of the United States, and were, and are invalid and voidable at the suit of the United States, in this and for this reason, namely, that the said titles were acquired by said defendants through, and by means of entries made under and in professed accordance with the laws of the United States, which entries were

by said defendants caused and procured to be made by means of solicitation, by offers and assurances of [3800] advantage to the several persons making such entries, and other means and methods of procurement employed by the said defendants for the purpose of causing such entries to be made in greater number than otherwise and without such procurement entries would be made, and with the intent and to the end that thereby a greater number of such entries should be made, and a larger area of public land should be rendered subject to be acquired by the said defendants, as set out and described in complainant's bill of complaint as amended.

XXIV. That the said Court erred in holding in effect that, in the circumstances and upon the facts established by the evidence herein, the defendants were innocent purchasers of the lands involved herein, in good faith, for value, and without notice or knowledge of fraud, illegality or other defects in the titles to the said lands.

XXV. That the said Court erred in finding and holding that the allegations in said bill of complaint, as amended, are not sustained by the testimony and evidence in said cause, and that there are no equities therein.

GEO. W. WICKERSHAM,
Attorney General of the United States,
PEYTON GORDON,
Special Assistant to the Attorney General,
Solicitors for Complainant.

[Endorsed]: Filed Sept. 16, 1912. A. L. Richardson, Clerk. [3801]

*In the District Court of the United States for the
District of Idaho, Central Division.*

IN EQUITY—No. 388.

THE UNITED STATES OF AMERICA,

Complainant,

vs.

WILLIAM F. KETTENBACH AND OTHERS,

Defendants.

Order Allowing Appeal.

This day came The United States of America, the complainant in the above-entitled cause, and presented its petition for an appeal and an assignment of errors accompanying the same, which petition, upon consideration of the Court, is hereby allowed, and the Court allows an appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

Sept. 23, 1912.

FRANK S. DIETRICH,

Judge.

[Endorsed]: Filed Sept. 23, 1912. A. L. Richardson, Clerk. [3802]

**[Order Allowing Withdrawal of Exhibits for Use
on Appeal.]**

*In the District Court of the United States, for the
District of Idaho, Northern Division.*

IN EQUITY—Nos. 388, 406, 407.

THE UNITED STATES OF AMERICA,

Complainant,

vs.

WILLIAM F. KETTENBACH et al.,

Defendants.

ORDER PERMITTING OF WITHDRAWAL OF
EXHIBITS.

It is hereby ordered that the following original exhibits, to wit: Plaintiff's Exhibits 6s, 6u, 6t, 80, 84, 85, 104, 105, 106, 118, 119, 120; and Defendants' Exhibits "B-1," "A," "B," "C," "D," "Y," "Z," and "A-1" (affidavit of Effie A. Jolley); and "A-2," "F-1," "H-1," "I-1," "L-1," "M-1," offered in evidence at the trial of said causes, be allowed to be withdrawn from the files of this court, for the purpose of being transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, as a part of the record on appeal to the said United States Circuit Court of Appeals, in these causes, to be returned to the Clerk of this Court, upon the termination of said appeal.

Dated at Boise, Idaho, December 2d, 1912.

FRANK S. DIETRICH,

Judge.

[Endorsed]: Filed December 2d, 1912. A. L. Richardson, Clerk. [3803]

*In the District Court of the United States Within
and for the District of Idaho, Central Division.*

IN EQUITY—#388.

UNITED STATES OF AMERICA,

Complainant,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER, CLARENCE W. ROBNETT,

WILLIAM DWYER, and FRANK W. KETTENBACH,

Defendants.

Citation.

United States of America,—ss.

The President of the United States, to William F. Kettenbach, George H. Kester, Clarence W. Robnett, William Dwyer, and Frank W. Kettenbach, and to George W. Tannahill and James E. Babb of Lewiston, Idaho, Their Attorneys, Greeting:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be held at the city of San Francisco, State of California, within thirty days from the date of this writ, pursuant to an appeal filed in the clerk's office of the District Court of the United States, within and for the District of Idaho, Central Division, wherein the United States of America is plaintiff, and you, William F. Kettenbach, George H. Kester, Clarence W. Robnett, William Dwyer, and Frank W. Kettenbach, are the defendants in error, to show cause, if any there be, why the judgment in said appeal mentioned should not be [3804] corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable FRANK S. DIE-TRICH, Judge of the United States District Court in and for the Central Division, District of Idaho,

this 23d day of September, A. D. 1912.

FRANK S. DIETRICH,

District Judge.

[Seal]

Attest: A. L. RICHARDSON,

Clerk.

Service of the within Citation and receipt of a copy thereof admitted this 14th day of Oct. 1912.

CLARENCE W. ROBNETT.

.....,

Attorneys for Defendants and Respondents.

Received copy hereof from Wm. Schuldt, Deputy U. S. Marshal, Sept. 26, 1912.

JAMES E. BABB,

Solr. and of Counsel for Frank W. Kettenbach.

GEO. W. TANNAHILL. [3805]

United States of America,
District of Idaho,
Central Division,—ss.

I hereby certify that I served the within and foregoing Citation upon William Dwyer, Sept. 26, 1912, upon William F. Kettenbach, and Frank W. Kettenbach, Oct. 1st, 1912, at Lewiston, Nez Perce County, in the District of Idaho, Central Division, by then and there delivering to the said William Dwyer, William F. Kettenbach and Frank W. Kettenbach, personally, a true copy of the within Citation.

And I further certify that I served the within Citation on George W. Tannahill and James E. Babb, attorneys for the defendants, on the 26th day of September, 1912, at Lewiston, County of Nez Perce, District of Idaho, Central Division, by then and

and there delivering to the said George W. Tannahill and James E. Babb, personally, a true copy of the within Citation.

Dated at Lewiston, in the District of Idaho, Central Division, this 4th day of October, 1912.

After due search and diligent inquiry I was unable to find George H. Kester and Clarence W. Robnett within the District of Idaho.

S. L. HODGIN,
United States Marshal.
By Wm. Schuldt,
Deputy. [3806]

[Endorsed]: No. 388. In the District Court of the United States for the District of Idaho, Central Division. United States of America vs. William F. Kettenbach et al. Citation. Filed October 17th, 1912. A. L. Richardson, Clerk. [3807]

Return to Record.

And thereupon it is ordered by the Court that the foregoing transcript of the record and proceedings in the cause aforesaid, together with all things thereunto relating, be transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit, and the same is transmitted accordingly.

[Seal] Attest: A. L. RICHARDSON,
Clerk. [3808]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

*In the Circuit Court of the United States in and for
the District of Idaho, Northern Division.*

BILL IN EQUITY—No. 388.

THE UNITED STATES OF AMERICA,

Plaintiff in Error,

vs.

WILLIAM F. KETTENBACH, GEORGE H.
KESTER, WILLIAM DWYER, CLAR-
ENCE W. ROBNETT, FRANK W. KET-
TENBACH,

Defendants in Error.

United States of America,
District of Idaho,—ss.

I, A. L. Richardson, Clerk of the District Court of the United States for the District of Idaho, do hereby certify that the foregoing transcript consisting of pages numbered from 1 to 3810, inclusive, to be a full, true and correct copy of the record and proceedings in the said court in a certain suit in equity therein lately depending, wherein the United States of America is the complainant and William F. Kettenbach and (George H. Kester, William Dwyer, Clarence W. Robnett, Frank W. Kettenbach) are defendants, and numbered three hundred eighty-eight as the same remain of record and on file in the office of the Clerk of said Court, except as to certain exhibits, an abstract of which is included therein in lieu of full copies of the originals of such ex-

hibits, in accordance with the stipulation between the parties to said suit attached to said abstract and copied in said transcript. [3809]

In testimony whereof I have hereunto set my hand and affixed the seal of said District Court this sixteenth day of December, A. D. 1912.

[Seal]

A. L. RICHARDSON,
Clerk. [3810]

[Endorsed]: No. 2209. United States Circuit Court of Appeals for the Ninth Circuit. The United States of America, Appellant, vs. William F. Kettenbach, George H. Kester, Clarence W. Robnett, William Dwyer, and Frank W. Kettenbach, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the District of Idaho, Central Division.

Filed December 19, 1912.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

